

Chapter HSS 55

DAY CARE FOR CHILDREN

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Note: Sections HSS 55.01 to 55.44 as they existed on October, 1984 were repealed and new sections HSS 55.01 to 55.44 were created effective November 1, 1984.

PREFACE

Section 48.65, Stats., requires that persons operating day care centers for children be licensed. The legislative history of s. 48.65, Stats., clearly indicates that it not only includes family and group day care centers but also day camps which provide, for compensation, care and supervision for 4 or more children under 7 years of age for less than 24 hours a day. Therefore, the department has developed rules, some of which apply to all day care centers including day camps, while others recognize and make provision for certain unique differences in the environmental and the programmatic aspects of each type of care.

The statute also requires that the department establish rules which must be met in order to qualify for a license and which protect and promote the health, safety and welfare of the children in a day care center. Chapter HSS 55 represents the *minimum* level of acceptable care

that a license may provide to children in a day care center in Wisconsin. These rules should not be confused with accreditation by professional organizations which is based upon conformity with ideal rather than minimal standards, or with certification of day care providers for purchase of services with public funds.

Clearly, the fact that a day care center is licensed in no way diminishes the responsibility of parents for vigilance in seeing that their children are receiving care which protects their physical well-being and encourages healthy intellectual and emotional development.

Whenever the rules in this chapter indicate that materials such as a request for a variance, an application for licensure or a complaint about a center are to be sent to or may be requested from the department, the specific departmental agency to contact is the department's regional office serving the geographic area of the state in which the day care center is located. If the regional office address is unknown to the day care center operator, a parent or other interested person, then he or she may get the address from the Office for Children, Youth and Families, Division of Community Services, P.O. Box 7851, Madison, WI 53707 (608-266-3036).

Subchapter I — General Provisions

HSS 55.01 Scope. Sections HSS 55.01 through 55.10 apply to all day care centers for children.

History: Cr. Register, October, 1984, No. 346, eff. 11-1-84.

HSS 55.02 Authority and purpose. (1) **AUTHORITY.** Subchapters I, II, III and IV are promulgated under the authority of s. 48.67, Stats.

(2) **PURPOSE.** The purpose of this chapter is to protect and promote the health, safety and welfare of children in day care centers in Wisconsin.

(3) **CONSTRUCTION.** This chapter shall be liberally construed to effect the objectives in sub. (2).

(4) **EXCEPTION TO RULES.** The department may grant a variance to a requirement of this chapter when it is assured that the health, safety and welfare of the children served will not be jeopardized. A request for a variance shall be in writing, shall be sent to the department, and shall include justification for the requested action and an explanation of the alternative provisions planned to meet the intent of the rule.

History: Cr. Register, October, 1984, No. 346, eff. 11-1-84.

HSS 55.03 Applicability. This subchapter and subchs. II, III and IV apply to all day care centers, whether the facility in which the child care and supervision is provided is known as a day care center, family day care, day camp, camp, day nursery, nursery school, preschool, head start or by another designation, but they do not apply to:

(1) Group lessons to develop a talent or skill, such as dance or music, social group meetings and activities, group athletic activities and religious education classes where a child attends for 2 hours or less a day or 5 hours or less a week;

(2) Care and supervision while the parents are on the premises and are engaged in shopping, recreation or other non-work activities;

(3) Seasonal programs of 10 days or less duration in any 3-month period, including day camps, vacation bible school and holiday child care programs;

(4) Care and supervision in emergency situations; and

(5) Care and supervision while the parent is employed on the premises if the parent's child receives care and supervision for no more than 3 hours a day.

History: Cr. Register, October, 1984, No. 346, eff. 11-1-84; emerg. am. eff. 4-22-85; am. Register, August, 1985, No. 356, eff. 9-1-85.

HSS 55.04 Definitions. In subchs. I, II, III and IV:

(1) "Assistant child care teacher" means a child care worker who works under the supervision of a child care teacher.

(2) "Base camp" means the permanent premises, public or private, on which the day camp is operated.

(3) "Camp director" means the individual on the campsite who is responsible for the administration of the camp, including program operations, business operations, food service, health service, and other supportive services.

(4) "Care" means providing for the safety and the developmental needs of a child in a group day care center, family day care center or day camp.

(5) "Child care teacher" means a child care worker who plans and implements daily activities for a designated group of children.

(6) "Child care worker" means an adult in a group day care center who meets the qualifications for child care teacher under s. HSS 55.32 (1) (c) or assistant child care teacher under s. HSS 55.32 (1) (d).

(7) "Compensation" means salary or wage or other material consideration such as gifts or compensatory labor received for the care and supervision of children. "Compensation" does not include cooperative arrangements made between 2 or more parents for the exchange of child care and supervision, and the payments made by them for the actual cost of equipment, supplies or facilities incidental to the operation of the cooperative arrangements.

(8) "Counselor" means a staff member who works directly with children.

(9) "Day camp" or "camp" means a licensed day care center that provides an experience in a seasonal program oriented to the out-of-doors for periods less than 24 hours a day.

(10) "Day care center" or "center" means a licensed facility where a person, other than relative or guardian, provides care and supervision for 4 or more children under 7 years of age, for less than 24 hours a day and for compensation.

(11) "Department" means the department of health and social services unless otherwise noted.

(12) "Family day care center" means a center that provides care and supervision for 4 to 8 children.

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

(14) "Group" means a specific number of children who have the same child care worker responsible for the children's well-being and meeting

the children's basic needs and who are cared for in the same self-contained room or area at the center.

(15) "Group day care center" means a center that provides care and supervision for 9 or more children.

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

(17) "Licensee" means the corporation, individual, partnership or nonincorporated association or cooperative which has legal and financial responsibility for the operation of a day care center and for meeting the licensing rules.

(18) "Night care center" means a group day care center or family day care center which operates during any period of time between 7:00 p.m. and 6:00 a.m.

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

(20) "Parent cooperative" means a center organized by parents for their preschool children in which the parents have decision-making authority to establish and change policy, program and personnel practices.

(21) "Parochial or private school" means an educational program which meets all the criteria specified under s. 118.165 (1), Stats., or as determined by the superintendent of public instruction under s. 118.167, Stats.

(22) "Physician" has the meaning prescribed in s. 448.01 (5), Stats.

(23) "Premises" means a tract of land with buildings, structures or shelters on it.

(24) "Provider" means an adult in a family day care center who works with children.

(25) "Self-contained room or area" means a room separated by permanent walls or an area separated by permanent or portable partitions or dividers acting as a visual barrier which:

(a) Is reserved for a specific group of children; and

(b) Contains the indoor equipment and furnishings required for that group.

(26) "Supervision of children" means guidance of the behavior and activities of children for their health, safety and well-being.

(27) "Supervision of staff" means guidance of the behavior and activities of center employees which may include provision of instructions to carry out activities for limited periods of time out of sight or hearing of the supervisor.

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

(29) "Volunteer" means a person who agrees to give time, without compensation, to provide transportation or to work with children in a day care center.

HSS 55.05 Licensing administration. (1) **LICENSING CATEGORIES.** Day care centers are divided for licensing purposes into the following categories:

- (a) Family day care centers;
- (b) Group day care centers; and
- (c) Day camps.

(2) **LICENSING PROCEDURES.** (a) A person making an inquiry to the department about obtaining a day care license shall be:

1. Provided with the relevant parts of this chapter;
2. Given other written materials or listings of publications about establishing a day care center;
3. Offered an opportunity to meet with a departmental representative to discuss the materials;
4. Supplied with the necessary forms if licensing is desired; and
5. Assisted through the licensing process by a departmental representative.

Note: The licensure application form, DCS-102, may be obtained from any department regional office.

(b) An applicant shall file an application and other materials required for the specific category of day care center licensure and licensure renewal on forms provided by the department at least:

1. Sixty days prior to the date proposed for the center to begin operating;
2. Except for day camps, 30 days prior to the end of the current licensing period;
3. Forty-five days prior to opening an additional center;
4. Thirty days prior to changing the address of the center; and
5. Thirty days prior to new ownership of the center.

(c) Day care centers shall include the following materials when submitting an application for licensure:

1. A clearly defined statement of purpose as it relates to the provision of child care services;
2. A signed statement by the applicant or licensee accepting legal responsibility for complying with applicable parts of this chapter;
3. The articles of incorporation and by-laws if the center is organized as a corporation, association or cooperative;
4. A signed authorization which permits the department to make whatever investigation it considers necessary for the verification of pertinent application information;
5. Specifications regarding the center's premises as follows:

a. Family and group day care applicants shall submit a diagrammatic floor plan of the center, including room dimensions and room usage, and a diagram of the outdoor areas, including area dimensions, location and enclosures;

b. Day camp applicants shall submit a general description of the camp area, geographic location and size of the base camp; and

c. Day camps operating without a base camp and having a program consisting primarily of day trips shall submit the proposed itinerary of day trips to the department.

6. Group day care and day camp applicants shall include a written delegation of administrative authority signed by the licensee which outlines the organizational structure and designates, in a chain of command form, those persons on the premises in charge of the center for all hours of operation;

7. Family day care applicants shall include the names, addresses and telephone numbers of 2 references other than relatives; and

8. Day camp applicants shall include:

a. A statement from the state laboratory of hygiene or a state approved laboratory indicating that the water source has been tested and found to be safe; and

b. The name, address and telephone number of the person to be contacted by the licensing representative for the pre-camp licensing review.

(d) Within 20 working days after receiving an application for initial licensure, a departmental representative shall contact the applicant in person or by phone and develop a check list for the applicant to utilize in meeting pre-licensing requirements, including:

1. Necessary building inspections;
2. Required equipment, furnishings and supplies;
3. Requirements for staffing and staff qualifications;
4. Required safety and sanitation equipment and supplies; and
5. Required written policies and procedures.

(e) When the applicant determines that all requirements on the check list have been met, the applicant shall notify the departmental representative.

(f) Within 20 working days after the notification under par. (e) the departmental representative shall survey the day care center site to determine whether the applicant has complied with all of the requirements.

(g) When the applicant is found to be in compliance with all requirements, the department shall issue a day care center license within 5 working days from the date of completing the survey study.

(h) If the applicant is not in compliance, the department shall specify in writing the areas of non-compliance and the applicant shall have an opportunity to make the necessary changes and shall be re-surveyed within 20 working days after notifying the departmental representative.

(3) **AMENDMENT TO LICENSE.** A written request for an amendment to the license shall be submitted to the department by the licensee before changes are made in the conditions of the current license such as maximum number of children, age range of children, hours, days of the week, months of the year in operation or change in the name of the center.

(4) **TERMS OF LICENSE.** (a) The number of children under 7 years of age in care of the center at any one time may not exceed the number for which the center is licensed.

(b) The age of children served may not be younger or older than the age range specified in the terms of the license.

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

(5) **ADDITIONAL LICENSE.** A licensee seeking licensure for an additional center location shall demonstrate compliance with applicable parts of this chapter in the operation of the existing center.

(6) **CONDITION OF LICENSURE.** The department may refuse to grant a license or may revoke a license if the licensee, applicant or proposed or current employe or volunteer:

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

(b) Has been convicted of a felony, misdemeanor or other offense the circumstances of which substantially related to the care of children or activities of the center;

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

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

(7) **SUMMARY SUSPENSION OF A LICENSE.** (a) Under the authority of s. 227.51 (3), Stats., the department may order the summary suspension of a license and, therefore, the closing of a day care center following a finding of imminent danger to the health, safety or welfare of the children in care. A finding of imminent danger may be based on, but not limited to, the following:

1. Failure to provide environmental protections such as heat, water, electricity or telephone service;

2. The licensee, employe or volunteer has been convicted of or has a pending charge for a crime against life or bodily injury;

3. The licensee, employe or volunteer has been convicted of a felony, misdemeanor or other offense or has a pending criminal charge which substantially relates to the circumstances of caring for children or activities of the center; or

4. The licensee, employe or volunteer is the subject of a current investigation for alleged child abuse or neglect pursuant to s. 48.981, Stats.

Note: Examples of actions the department will consider in making determinations under s. HSS 55.05 (6) and (7), are: abuse and neglect of children; sexual assault; abuse of residents of facilities; crimes against life and bodily security; kidnapping; abduction; arson of buildings or property other than buildings; robbery; receiving property from children; crimes against sexual morality, such as enticing a minor for immoral purposes or exposing minors to harmful materials and interfering with the custody of a child. The list is illustrative. It is not all-inclusive of the types of offenses that may be considered.

(b) An initial order to close may be a verbal order by a departmental representative but shall be approved at a regional administrative level before it becomes effective. The department shall within 72 hours of the approval either permit the reopening of the center or initiate proceedings in accordance with s. 227.51 (3), Stats., for the revocation of the license to operate. A preliminary hearing on the revocation shall be provided within 10 working days of the initial order to close.

(8) **EFFECT OF NOTICE TO REVOKE OR DENY A LICENSE.** The department shall provide a center with a written 30-day notice of intent to revoke or deny a license. Upon receipt of that notice and during any revocation or denial procedures which may result, a day care center may not accept for care any child not enrolled as of the date of receipt of the 30-day notice without the written approval of the department.

History: Cr. Register, October, 1984, No. 346, eff. 11-1-84.

HSS 55.06 Complaints. All complaints concerning a licensed or illegally operating day care center shall be submitted to the department by telephone, letter or personal interview. Complaints will be investigated by a licensing representative of the department. A written report of the findings of the investigation will be sent to the complainant upon request.

History: Cr. Register, October, 1984, No. 346, eff. 11-1-84.

HSS 55.07 Non-discrimination, confidentiality and reporting child abuse.

(1) **DISCRIMINATION PROHIBITED.** The licensee shall ensure that the day care center does not discriminate on the basis of age, race, color, sex, sexual orientation, creed, handicap, national origin or ancestry against:

(a) Any employe or applicant for employment, in regard to hire, tenure or term, condition or privilege of employment as specified in the Fair Employment Act. ss. 111.31 to 111.395, Stats.; or

(b) Any enrolled child and family or any applicant for enrollment in regard to admission, privilege of enrollment or discharge condition except where it is a reasonable and necessary age requirement specified under this chapter.

(2) **CONFIDENTIALITY OF RECORDS.** The licensee is responsible for compliance by the day care center with s. 48.78, Stats., and this subsection.

(a) Persons having access to children's records may not discuss or disclose personal information regarding the children and facts learned about children and their relatives. This does not apply to:

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

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

Subchapter II — Additional Requirements for Family Day Care Centers

HSS 55.20 Scope. Sections HSS 55.20 to 55.27 apply to all family day care centers.

History: Cr. Register, October, 1984, No. 346, eff. 11-1-84.

HSS 55.21 Operations requirements. (1) **ADMINISTRATION.** The licensee shall:

(a) Comply with all applicable statutes under which the requirements in this chapter are promulgated;

(b) Comply with all applicable requirements in this chapter;

(c) Provide documentation of insurance coverage by the submission of a certificate of insurance reflecting current dates of coverage for:

1. 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.

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

3. Non-owned vehicle liability insurance when transportation is provided by other than center-owned vehicles;

(d) Make written information available to parents on enrollment practices, including admission and termination of enrollment; fees and absences; health practices, including illness and injuries; nutrition; daily activities of the children; and discipline;

(e) Display the day care license in a location where parents can see it during the hours of operation; and

(f) Ensure that all published statements, such as brochures and publicity, are accurate.

(2) **REPORTS.** The licensee shall report to the department:

(a) An accident resulting in the death or serious injury of a child while at the center, within 48 hours after the occurrence. In this paragraph, "serious injury" means one requiring inpatient hospitalization of the child;

(b) A catastrophe resulting in damage to the center, within 24 hours after the occurrence; and

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

(3) **CHILDREN'S RECORDS.** (a) The licensee shall maintain a current written record at the center on each child enrolled and make it available to the licensing representative. Each record shall include:

1. Enrollment information prescribed under s. HSS 55.31 (4) (a) 1.

2. Written consent from the parent for emergency medical care or treatment;

3. Authorization for the child to participate in and be transported for field trips and other activities if these are part of the program;

4. Specific informed written consent from the parent for each incident or participation by a child in any research or testing project. The family day care center shall obtain and make available to the department and the parents a statement indicating the sponsor, the subject matter, the specific purpose and the proposed use of results with respect to each such project; and

5. Documentation of the child's most recent physical examination, immunization history and other matters relating to the child's health.

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

(c) The licensee shall maintain a daily medical log to record any injuries received by a child or medication dispensed to a child.

1. The log shall be in a bound book with pages that are lined and numbered. The pages may not be removed.

2. Entries shall be in ink and dated and signed or initialed by the provider.

History: Cr. Register, October, 1984, No. 346, eff. 11-1-84.

HSS 55.22 Day care provider. (1) QUALIFICATIONS. (a) The provider shall:

1. Be at least 18 years of age; and

2. Have satisfactorily completed, or be enrolled in, 40 hours of early childhood training which is approved by the department.

(b) The provider shall document 15 hours of training received each year in child growth and development or early childhood education as approved by the department. This training may include attendance at training events, workshops, conferences, independent reading, consultation with community resource people or observation in day care programs.

(c) Family day care providers licensed to care for infants and toddlers shall receive 10 hours of training in infant and toddler care as approved by the department within 6 months after accepting any infant or toddler for care. The training shall be part of the required entry-level training or shall be obtained through continuing education.

(d) The provider shall not be employed in any other occupation during the hours of operation of the center.

(2) **STAFFING AND GROUPING.** (a) At no time may more than 8 children under 7 years of age be in the care of the center. This total shall be determined as follows:

1. All children who are under 7 years of age shall be included in this number; and

2. When children who are 7 years of age or older and who are not members of the provider's family are served in the same center with children

under 7 years of age, they shall be included in determining the total number of children to be served within the licensed capacity.

(b) The maximum number of children that one provider may care for is specified in Table 55.22.

TABLE 55.22
MAXIMUM NUMBER OF CHILDREN IN FAMILY DAY CARE, PER PROVIDER

Children Under 2 Years of Age	Children 2 through 6 Years of Age	Maximum Number of Children in a Group	Maximum Number of Additional Children in First Grade or Above in Care for Fewer than 3 Hours a Day
0	8	8	0
1	7	8	0
2	5	7	1
3	2	5	3
4	0	4	2

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

(d) No more than 3 children under one year of age may be served at any one time by any one provider.

(e) A child or group of children shall have adult supervision at all times.

(f) A second adult shall be available within 5 minutes for emergencies. There shall be a dated and signed statement with the name, address and telephone number on file certifying the second person's availability and agreement to serve.

(g) In the event of the provider's absence, the licensee shall ensure that a substitute provider is on the licensed premises during any period that enrolled children are present. The substitute provider may be the same person as the person designated to be on-call for emergencies.

(h) The adult on call for emergencies and the substitute provider shall receive an orientation to the operation of the home which includes:

1. The procedure for evacuation and other emergencies;
2. The location of the daily attendance sheet and emergency information for children; and
3. The written information specified in HSS 55.21 (1) (d).

(i) Only a person 18 years of age or older may be left in sole charge of the children.

(3) **HEALTH.** (a) Any person who works directly with children, except volunteers, shall have a health examination within 6 months prior to beginning work or within 30 days after beginning work. The report shall be

dated and signed by a licensed physician, be on file in the center and certify that:

1. The person is free from illness detrimental to young children, including tuberculosis; and
2. The person is physically able to work with young children.

(b) Staff, household members, volunteers, visitors or parents with symptoms of illness or communicable disease or whose behavior gives reasonable concern for the safety of children shall not be in contact with children.

History: Cr. Register, October, 1984, No. 346, eff. 11-1-84.

HSS 55.23 Home. (1) **GENERAL REQUIREMENTS.** (a) *Building.* 1. The licensee shall maintain a report of inspection which indicates that the building has been approved for use as a family day center by an inspector employed or certified by the department of industry, labor and human relations. The home shall comply with all state and local building codes.

Note: Local authorities should be consulted to obtain any required zoning clearances or building permits.

2. The space used by children shall be no less than 35 square feet (3.3 square meters) of usable floor space per child. This space excludes passageways, bathrooms, lockers, storage areas, the furnace room, that part of the kitchen occupied by stationary equipment and furniture not intended for children's use.

3. The inside temperature may not be less than 67° F (20° C).

(b) *Protective measures.* 1. Steam radiators, electric fans, electric outlets, electric heating units and hot surfaces such as pipes shall be protected by screens or guards.

2. Unvented space heaters shall be prohibited in rooms used by or accessible to children.

3. Firearms, ammunition and other potentially dangerous items which are located on the premises shall be under lock and key.

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

5. The fire extinguishers shall be operable at all times, inspected once a year by a person qualified to do so and bear a label indicating their present condition and the date of last inspection.

6. The provider and substitute shall be knowledgeable about the use of the fire extinguishers.

7. Each center shall have an evacuation plan for fire, tornados and other emergencies which shall be practiced monthly.

8. The center shall have at least one telephone with a list of emergency telephone numbers such as the local rescue squad, fire department, police department, law enforcement agency, child protective services and emergency medical service posted by each telephone.

9. Indoor and outdoor space shall be free from hazards, including but not limited to abandoned automobiles and household appliances, uncovered wells and cisterns, stacked lumber with exposed nails, and explosives.

10. A motor vehicle at the home at all times or a public or private rescue or emergency vehicle shall be immediately available in case of an emergency.

11. Alcohol or non-prescribed controlled substances as specified in s. 161.01, Stats., may not be consumed during hours of operation by the day care provider.

(c) *Sanitation*. 1. The premises shall be free from litter, in a sanitary condition and in good repair.

2. Doorways and windows which are opened for ventilation shall be screened.

3. Furnishings, toys, cots, and other equipment shall be cleaned or washed regularly and as often as they become soiled.

4. Household duties and domestic routines shall be limited to daily maintenance of the home while children are present.

5. Potty chair receptacles shall be emptied, rinsed and disinfected immediately after each use.

(d) *Water*. 1. A safe supply of drinking water shall be readily available to the child at all times by use of disposable or individually labeled cups. Common use of drinking cups is prohibited.

2. When a public water supply is not available, a private well may be used if it is approved by the department of natural resources. Water samples from an approved well shall be tested by the state laboratory of hygiene or a state-approved laboratory at least annually. The water supply shall be found bacteriologically safe prior to use. The report shall be available to the department.

(2) **FURNISHINGS**. Furnishings shall be durable and safely constructed, with no sharp, rough, loose or pointed edges. The furnishings shall include:

(a) Table space and sufficient seating for each child;

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

(c) A safe, washable, cot, bed or sleeping bag for each child one year of age or older who naps or sleeps;

(d) A safe, washable crib provided for each child under one year of age who naps or sleeps; and

(e) Low shelves for equipment used daily by the children.

(3) **KITCHEN**. (a) *Equipment*. Equipment and utensils for preparing, serving, and storing food shall be clean and equipped for the safe handling of food.

(b) *Dishwashing procedure*. 1. Utensils and dishes shall be scraped, sorted and prewashed under running water.

2. For manual washing of dishes and utensils, a 3-step procedure shall be used:

a. Wash in water between 110 and 120° F (43 to 52° C), using an effective soap or detergent;

b. Rinse by immersing dishes and utensils in clean, hot water to remove soap or detergent; and

c. Sanitize by submerging dishes and utensils for at least 2 minutes in a solution of an approved sanitizer.

3. For mechanical washing of dishes and utensils in home type dishwasher with a temperature setting of between 130° and 150° F. (54° to 66° C.), dishes and utensils shall be washed, using soap or detergent, and rinsed in the dishwasher. Where dishwashers are equipped with automatic sanitizers, the sanitizers shall be used.

4. All dishes and utensils shall be air-dried in racks or baskets or on a drain board.

Note: A list of approved sanitizers is available from the Section of Hotels and Restaurants, Division of Health, P.O. Box 309, Madison, Wisconsin 53701.

(c) *Food sources.* 1. Food shall be from sources approved by the department and shall be clean, wholesome, free from spoilage, adulteration and misbranding, and safe for human consumption.

2. Only milk and milk products which are pasteurized and meet the Grade A milk standard of the department of agriculture, trade and consumer protection may be served or used.

3. Food in dented, bulging or leaking cans, or cans without labels shall not be used.

4. No hermetically sealed, non-acid or low acid food which has been processed in a place other than a commercial food processing establishment may be used.

(d) *Food storage.* Food shall be stored at temperatures which will protect against spoilage.

1. Perishable and potentially hazardous food which includes all custard-filled and creamed-filled pastries, milk and milk products, meat, fish, shellfish, gravy, poultry stuffing and sauces, dressings, salads containing meat, fish, eggs, milk or milk products, or any other food or food products likely to spoil quickly if not kept at the proper temperature shall be continuously maintained at 40° F (4° C) or below or 150° F (66° C.) or above, as appropriate, except during necessary periods of preparation and service.

2. Each refrigerator shall be maintained at 40° F (4° C.) or lower and each freezer at 0° F. (-17° C.) or lower.

3. Each refrigerator and freezer shall be equipped with a clearly visible, accurate thermometer.

4. Food shall be covered during refrigeration.

(e) *Food handling.* 1. Raw fruits and vegetables shall be washed before serving or cooking.

2. Food returned from individual plates or from dining tables shall be discarded.

3. Leftover prepared food which has not been served shall be refrigerated promptly and used within 36 hours, or frozen immediately for later use.

(4) WASHROOM AND TOILET FACILITIES. (a) There shall be at least one toilet and one sink available for use by the children.

(b) Steps or blocks shall be provided if the washbasin or toilet is not proportioned to the size of children.

(c) Soap, toilet paper, disposable paper or individually labeled towels and a waste paper container shall be provided and accessible to children.

Note: Information pertaining to plumbing requirements can be found in ch. ILHR 82.

(5) OUTDOOR SPACE. (a) This subsection applies to any center where children are present for more than 3 hours a day.

(b) There shall be at least 75 square feet (7.0 square meters) of outdoor play space for each child using the space at a given time.

(c) The outdoor space shall be well-drained and free of hazards.

(d) The boundaries of outdoor play space shall be defined in such a way as to protect children. A permanent enclosure not less than 4 feet (1.2 meters) high shall be provided where there are hazards nearby, including but not limited to traffic or bodies of water.

History: Cr. Register, October, 1984, No. 346, eff. 11-1-84.

HSS 55.24 Child. (1) PROGRAM. (a) Planned activities shall be designed to expose children to a variety of cultures and provide experiences in which each child can:

1. Be successful and feel good about self;
2. Use and develop language;
3. Use large and small muscles;
4. Use materials and take part in activities which encourage creativity;
5. Learn new ideas and skills; and
6. Participate in imaginative play;

(b) The daily activities shall be planned according to the age and developmental level of the children in care and include a flexible balance of:

1. Daily indoor and outdoor activities;
2. Active and quiet play;
3. Protection from excess fatigue and overstimulation; and
4. Individual and group activities;

(c) Children shall be given individual attention on a one to one basis.

(d) Cultural diversity shall be reflected in the program through the incorporation of a variety of languages, foods, celebrations and lifestyles.

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

(2) **DISCIPLINE.** (a) Each day care center shall have a written policy on discipline of the children which provides for positive guidance, redirection and the setting of clear-cut limits. The policy shall be designed to help each child develop self-control, self-esteem, and respect for the rights of others.

(b) Only a person meeting the qualifications of a provider may discipline children. Discipline may not be delegated to older children or peers.

(c) Punishment which is humiliating or frightening to a child, including but not limited to the following, is prohibited:

1. Spanking, hitting, pinching, shaking or inflicting any other form of corporal punishment;

2. Verbal abuse, threats or derogatory remarks about the child or the child's family;

3. Binding or tying to restrict movement or enclosing in a confined space such as a closet, locked room, box or similar cubicle; or

4. Withholding or forcing meals, snacks or naps.

(d) Children shall not be punished for lapses in toilet training.

(3) **EQUIPMENT.** (a) Indoor and outdoor play equipment shall be provided and shall be:

1. Scaled to the size and developmental level of the children;

2. Of sound construction with no sharp, rough, loose or pointed edges, in good operative condition, and anchored when necessary; and

3. Placed so as to avoid danger of accident or collision and to permit freedom of action.

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

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

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

Note: Lists suggesting kinds and numbers of equipment for centers are available from a department regional office on request.

(e) Equipment and materials which reflect an awareness of cultural and ethnic diversity shall be provided.

(4) **REST PERIODS.** (a) During sessions lasting more than 4 hours, there shall be a nap or rest period of one hour or longer for all children under 5 years of age.

(b) Children who do not sleep shall be permitted to get up and be helped to have a quiet time through the use of equipment or activities which do not disturb other children.

(c) Each child shall be provided with a bed, cot, sleeping bag or crib which is placed at least 2 feet (63.8 cm) from the next bed, cot, sleeping bag or crib. When sleeping bags are used, the child's head may not rest directly on the floor.

1. When the beds of family members are used by day care children, the beds shall be completely covered with a separate sheet.

2. Each child using a bed, cot or crib shall be provided with an individually identified sheet and blanket which may be used only by that child until it is washed.

3. Beds, cots, cribs, sleeping bags and bedding shall be stored in a clean and sanitary manner.

4. There shall be a complete change of bed linen after each 5 uses or immediately when wet or soiled and always after a change of occupancy. Sleeping bags shall be washed or cleaned as often as needed and at least weekly.

(d) Infants under one year shall sleep alone in cribs. Only 2 related children may share a double bed. No more than one child may occupy a single size bed, cot or sleeping bag.

(5) **MEALS AND SNACKS.** (a) Food shall be provided based on the amount of time children are present, as specified in Table 55.24.

TABLE 55.24

MEALS AND SNACKS TO BE SERVED TO CHILDREN IN FAMILY DAY CARE CENTERS

Time Present	Number of Meals and Snacks
2½ to 4 hours	1 snack
4 to 8 hours	1 snack and 1 meal
8 to 10 hours	2 snacks and 1 meal
10 or more hours	2 meals and 2 or 3 snacks

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

(c) Each meal shall provide ½ of the daily nutritional requirements of the child. Meal and snack patterns listed in pars. (d), (e) and (f) shall be used in meal planning.

(d) Breakfast shall consist of at least one item from each of the following categories:

1. Fruit or juice;
2. Cereal or whole grain or enriched bread product; and

3. Grade A vitamin D milk.

(e) Noon or evening meals shall consist of at least one item from each of the following categories:

1. Protein sources, such as meat, poultry, fish, egg, cooked dried peas or beans, cheese or peanut butter;

2. Two vegetables, or 1 vegetable and 1 fruit, or 2 fruits

3. Cereal, or whole wheat or enriched bread products; and

4. Grade A vitamin D milk.

(f) Mid-morning and mid-afternoon 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.

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

(h) The food served shall:

1. Reflect a variety of cultures and ethnic diversity;

2. Be made known to parents; and

3. Be reported in writing to the department upon request.

(i) When bag lunches or other foods are provided by the parent, the provider shall ensure that each child has a meal that provides $\frac{1}{3}$ of the daily nutritional requirements as specified in pars. (d) and (e).

(6) HEALTH. (a) *Observation*. 1. Each child upon arrival shall be observed by the provider for symptoms of illness.

2. Any evidence of unusual bruises, contusions, lacerations, and burns shall be noted on the child's record.

(b) *Isolation*. 1. A separate room or area shall be provided for the care of children who become ill.

2. When an apparently ill child is observed in a center, the following procedures shall apply:

a. A child with a sore throat, inflammation of the eyes, fever, lice, ring-worm of the scalp, rash, vomiting, diarrhea or other illness or condition having the potential to affect the health of other persons, shall be isolated;

b. The child who has been isolated shall be provided with a bed, crib or cot and sheet and blanket in a separate room or area with the day care provider within sight and hearing of the child. The child shall be separated from other children until the child can be removed from the center; and

c. Arrangements shall be made with the parent or emergency contact person to remove the child from the center as soon as possible.

(c) *Communicable disease*. 1. When a child is suspected of having a communicable disease or condition listed in ch. HSS 145, including but

not limited to chicken-pox, German measles, infectious hepatitis, measles, mumps, poliomyelitis, scarlet fever, whooping cough, diphtheria or meningitis, the local public health officer shall be notified.

2. Whenever it is determined that a child has a communicable disease, the exposed children shall be watched for symptoms of the disease and their parents shall be notified as specified in sub. (7).

3. A child may be readmitted without a statement from a physician after a communicable disease only if the child has been absent for a period of time equal to the longest usual incubation period for the disease as specified by the department.

(d) *Medication.* 1. No prescription or non-prescription medications, including aspirin, cough medicine or nose drops may be given to a child except under the following conditions:

a. A written authorization dated and signed by the parent is on file;

b. Prescription medication is in the original container, and labeled with the child's name, drug, dosage, directions for administering, date and physician's name;

c. Non-prescription medication is labeled with the child's name and the request includes dosage and directions for administration; and

d. A written report including type of medication given, dosage, time, date and the name of the person administering the medication shall be kept in the center's medical log as specified in HSS 55.21 (3) (c).

2. Medication shall be stored so that it is not accessible to children.

3. Medication requiring refrigeration shall be kept in a separate, covered container clearly labeled "medication".

(e) *Personal cleanliness.* 1. Children's hands shall be washed with soap and running water before eating and after toileting. Children's hands and faces shall be washed after meals.

2. Persons working with children shall wash their hands with soap and running water before handling food and after assisting with toileting.

3. Individual washcloths, combs and toothbrushes shall be kept in a sanitary condition when used at the center.

4. Wet or soiled clothing shall be changed promptly from an available supply of clean clothing.

5. Applicable rules under s. HSS 55.25 (4) shall apply when children 2 years and older need attention for diapering and toileting.

(f) *Injuries.* 1. Treatment for injuries shall be planned for and carried out as follows:

a. Written permission from the parents to call the family physician or refer the child for medical care in case of injury shall be on file at the center. Parents shall be contacted as soon as possible after the emergency has occurred;

b. A planned source of emergency medical care, such as a hospital emergency room, clinic or other constantly staffed facility shall be designated and made known to parents;

c. There shall be written procedures to be followed for bringing a child to emergency medical care;

d. Each center shall have a supply of bandages, tape and bandaids;

e. Standard first aid practices shall be followed for serious injuries;

f. There shall be routine procedures for treatment of minor injuries; and

g. Superficial wounds may be cleaned with soap and water only and protected.

2. A record of the injuries shall be kept in the center medical log required under HSS 55.21 (3) (c).

(g) *Physical examination.* 1. Each child, including the provider's children in care, shall have an initial physical examination not more than 6 months prior to, nor later than 3 months after admission to a center.

2. Evidence of the most recent physical examination shall be provided by a report signed and dated by a physician.

3. Each child 2 years of age and older shall have a subsequent physical examination by a physician at least once every 2 years.

4. Each child under 2 years of age shall be given a physical examination by a physician at least once every 6 months after admission.

Note: Children participating in the early and periodic screening, diagnosis and treatment program (EPSDT) or other screening programs approved by the department meet the requirements of this paragraph.

(h) *Immunization.* A record of immunizations for each child shall be maintained to document compliance with s. 140.05 (16), Stats., and ch. HSS 144.

(7) PARENTS. (a) Parents shall be given an explanation of the operating practices and the program of the center before the child is admitted.

(b) Parents of an enrolled child shall be notified:

1. Immediately if the child becomes ill or is seriously injured; and

2. When they pick up the child or when the child is delivered if the child has incurred a minor injury.

(c) The center shall permit parents to visit and observe during the hours of operation.

(d) The provider shall communicate with the parent regarding the child's adjustment to the program and his or her growth and development.

(e) A copy of the applicable parts of this chapter shall be made available to parents.

(f) Parents shall be informed that the center maintains a medical log. Entries regarding a particular child shall be made accessible to the child's parents upon request.

HSS 55.25 Additional requirements for infant and toddler care. Family day care centers providing care and supervision to infants and toddlers shall comply with the additional requirements of this section.

(1) **GENERAL REQUIREMENTS.** (a) Information obtained on preadmission enrollment forms shall be used to individualize the program of care for each child. At least once every 2 months the provider and the child's parents shall discuss the child's development and routines. Any changes shall be noted in writing on the special intake forms and dated.

(b) Infants and toddlers are restricted to first floors and ground floors having direct grade-level exits.

(c) Safety gates shall be provided at stairways.

(2) **DAILY PROGRAM.** (a) Each child shall be allowed to form and follow his or her own patterns of sleeping and waking periods.

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

1. Throughout the day, each infant and toddler shall receive physical contact and attention such as being held, rocked, talked to, sung to and taken on walks inside and outside the center.

2. Routines related to activities such as bedtime, feeding, diapering and toileting shall be used as opportunities for language development and other learning experiences.

3. When a non-walking child is awake, the provider shall change the child's position and location periodically.

4. The non-walking child shall be given opportunities during each day to move freely by creeping and crawling in a safe, clean, open, warm and uncluttered area.

5. The children shall be encouraged to play with a wide variety of safe toys and objects.

6. Infants and toddlers shall be taken outdoors for part of each day except during inclement weather or when health reasons indicate otherwise.

(c) Transportation of infants and toddlers shall be in accordance with requirements under s. HSS 55.09.

(3) **FEEDING.** (a) Each infant and toddler shall be fed on his or her own feeding schedule.

(b) Food and formula brought from home shall be labeled with the child's name and refrigerated if required.

(c) If formula is provided by the center, it shall be of the commercially prepared, iron-enriched, ready-to-feed type.

(d) When formula is discontinued, the center shall provide and use Grade A vitamin D milk for children over one year of age and Grade A vitamin D whole milk for children one year and under. Use of other types of milk shall be based on the written recommendations of the child's physician.

(e) Leftover milk or formula shall be discarded after each feeding. Bottles shall be rinsed after use.

(f) Drinking water shall be offered to the infant and toddler several times daily.

(g) A child unable to hold a bottle shall be held whenever the bottle is given. Bottles may not be propped.

(h) Commercial baby food containers which are opened and foods prepared in the center which are stored shall be covered, dated and refrigerated. If not used within 24 hours, leftover food shall be discarded.

(i) A child too young to sit in a high chair or feeding table shall be held or placed in an infant seat while being fed. Wide-base highchairs with safety straps or feeding tables with safety straps shall be provided for those children not developmentally able to sit at tables and chairs.

(j) The children shall be encouraged to experiment with self-feeding with hands and spoons or both. Eating utensils and cups shall be scaled to the size and developmental level of the children.

(k) A variety of nourishing foods shall be offered including cereal, vegetables, fruit, eggs and meat according to the child's developmental level and the parent's feeding plan, except that no child may be forced to eat.

(4) DIAPERING AND TOILETING ACTIVITIES. (a) Wet and soiled diapers and clothing shall be changed promptly.

(b) There shall be a supply of dry, clean clothing and diapers sufficient in quantity to meet the needs of each infant.

(c) A child shall be changed on a surface which is individual to the child or is cleaned with a germicidal solution after each use.

(d) If cloth diapers are used, they shall be supplied by the parent. Soiled diapers shall be rinsed and placed in labeled plastic bags which are kept separate from other clothing and sent home daily.

(e) If disposable diapers are used, soiled diapers shall be placed in a plastic-lined covered container.

(f) Soiled diapers shall be removed from containers as needed or at least daily for washing or disposal. Containers shall be washed and disinfected daily.

(g) Soiled infant clothing shall be placed in a container separate from diapers.

(h) The hands of the provider shall be washed with soap and running water before and after each diapering or assistance with toileting routines.

(i) The application of lotions, powders or salves to the child during diapering may be done only at the specific direction of the parent or physician.

(j) A child shall be washed during diapering with a disposable washcloth or fabric washcloth which may be used only once before being discarded or washed. Washcloths shall be individual to each child.

(k) Washcloths and towels shall be provided for face and handwashing. Washcloths and towels shall be individual to each child and separate from washcloths used for diapering.

(l) Toilet training shall be planned cooperatively between the day care provider and the parent.

History: Cr. Register, October, 1984, No. 346, eff. 11-1-84.

HSS 55.26 Additional requirements for night care. Family day care centers providing care and supervision to children during any time between 7:00 p.m. and 6:00 a.m. shall comply with the additional requirements of this section.

(1) **GENERAL REQUIREMENTS.** (a) No provider may take care of children for more than 12 hours in any 24-hour period.

(b) The parent or the center shall provide each child in night care with individually labeled sleeping garments, a washcloth, a towel, a toothbrush and, if the child wishes, a special toy or blanket which has meaning to the child.

(c) The provider shall work with the child's parent to coordinate the plan for the time the child spends at the center with the family schedule.

(d) School-age children shall have an opportunity for reading or school work.

(e) The provider shall be knowledgeable about special techniques of evacuating sleeping children in an emergency.

(f) The provider shall be awake at all times including when children are sleeping.

(2) **FEEDING.** (a) Breakfast shall be served to all children in care for the night, unless the parent specifies otherwise.

(b) A nighttime snack shall be available to all children in care.

(c) Each child present at the time the evening meal is scheduled shall be served dinner.

(3) **PERSONAL CLEANLINESS.** (a) Children shall have a shower, tub or sponge bath as needed for body cleanliness. When a bathtub is used, fresh water shall be provided for each child and the tub shall be cleaned after each use.

(b) Children shall be closely supervised while bathing.

(4) **SLEEPING.** (a) Children who attend the center for the evening hours but who do not spend the whole night shall be given an opportunity to sleep.

(b) Sleeping routines for individual children shall be established based on information provided by the parents.

(c) A separate bed, crib or cot shall be provided for each child in night care, with sheets and blankets individual to each child.

(d) A supply of extra sleeping garments and bedding shall be maintained for emergencies and accidents.

(e) Rubber sheets shall be provided for children whose enrollment information indicates a tendency to bedwetting.

(f) Pillows with pillow cases shall be available for children who choose to use them.

(g) Children under 2 years of age in night care shall sleep in cribs.

(h) The provider shall work with parents to ensure consistency between the family and center bedtime routines.

History: Cr. Register, October, 1984, No. 346, eff. 11-1-84.

HSS 55.27 Additional requirements for care of school-age children. Family day care centers serving children who regularly attend programs for part of the day in a facility other than the center shall comply with the additional requirements of this section.

(1) **PROGRAM.** (a) The center shall have a written agreement signed by the parent or guardian which outlines the plan for transporting the child to and from the center.

(b) The center shall have a planned program which provides a change of pace from the school through provision of:

1. Rest and quiet areas;
2. Recreational activities, including outdoor and active play; and
3. Freedom for children to select and plan their own activities.

(2) **MEALS AND SNACKS.** School-age children who are present in the day care center shall be served meals and snacks at the time meals or snacks are served.

(a) When breakfast is served, it shall be made available to those children who have not had breakfast.

(b) School-age children present at mid-day shall be served lunch, and those present in the evening shall be served dinner.

(c) School-age children present after school shall be served a snack.

History: Cr. Register, October, 1984, No. 346, eff. 11-1-84.