

CERTIFICATE

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

I, Patricia A. Goodrich, Secretary of the Department of Health and Social Services and custodian of the official records of the Department, do hereby certify that the annexed rules relating to foster home care for children were duly approved and adopted by this Department on June 21, 1990.

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

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the State Office Building, 1 W. Wilson Street, in the city of Madison, this 21st day of June, 1990.

SEAL:



Patricia A. Goodrich, Secretary
Department of Health and Social Services

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ORDER OF THE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
RENUMBERING, REPEALING AND RECREATING AND CREATING RULES

To renumber HSS 56.10 and 56.15; to repeal and recreate HSS 56 (title) and 56.01 to 56.06; and to create HSS 56.07 and 56.08, relating to family foster care for children.

Analysis Prepared by the Department of Health and Social Services

A foster home provides residential care and maintenance for up to 4 children placed in the home under a court order or by voluntary agreement under s. 48.63, Stats. Foster homes are regulated by the Department and local licensing agencies under ch. HSS 56, Wis. Adm. Code. Chapter HSS 56 is designed to promote the health, safety and welfare of children placed in foster homes.

This order updates, reorganizes and fills in ch. HSS 56, clarifies existing requirements and adds a section on safety and a subsection on providing humane and nurturing care to foster children. Requirements that may not be waived by the licensing agency are specified. Documents that must be submitted by an applicant for a license are also specified. There are new requirements on minimum overall space, bathing and toileting facilities, telephone availability, heating, maintenance and repair, keeping personal information about foster children confidential, physical health and dental examinations, and fire protection. The minimum age of children who may not be left alone without adult supervision is raised from age 7 to 10.

Sections HSS 56.04 to 56.08 cover foster parent qualifications; requirements concerning the foster home, safety practices and care provided to foster children; and procedures for appeal by an applicant or licensee of an adverse licensing decision.

The Department's authority to create these rules is found in s. 48.67(1), Stats. The rules interpret ss. 48.48(9), 48.56(1)(i), 48.61(7), 48.62, 48.627, 48.64, 48.66, 48.67, 48.68(1) and 48.75, Stats.

SECTION 1. HSS 56 (title) and HSS 56.01 to 56.06 are repealed and recreated to read:

CHAPTER HSS 56
FOSTER HOME CARE FOR CHILDREN

HSS 56.01 INTRODUCTION. (1) PURPOSE. The purpose of this chapter is to protect the health, safety and welfare of children placed in foster homes. The chapter established the qualifications and responsibilities of foster parents, the size and condition of the foster home and the essential components of care which must be provided to each foster child. Although children in need of foster care may not be placed in a home that is not licensed under this chapter, a license to operate a foster home does not entitle the holder to placements.

(2) STATUTORY AUTHORITY. This chapter is promulgated under the authority of s. 48.67(1), Stats., to carry out licensing requirements under ss. 48.48(9), 48.57(1)(i), 48.61(7), 48.62, 48.66 and 48.75, Stats., to establish a fair hearing procedure under s. 48.675, Stats., and to establish criteria for supplemental payments to foster parents under s. 49.19(12), Stats.

(3) TO WHOM THE RULES APPLY. Except as provided in sub. (4), all requirements contained in this chapter shall be met by all persons required to be licensed under s. 48.62, Stats.

(4) EXCEPTION TO RULES. (a) A licensing agency may grant an exception to any requirement in this chapter if the licensing agency determines that the exception will not jeopardize the health, safety or welfare of the foster children, except that no exception may be granted to any of the following requirements: ss. HSS 56.03(1), (2), (4)(a)1 to 5 and 8 and (b)2, and (6); HSS 56.04 (1)(a) and (b)2 to 7 and 9, (2), (4m) and (6)(a); HSS 56.05(3)(a), (4)(b), (c) and (e) to (h), (5) (a) and (c), (6) and (10)(a); HSS 56.06(1)(a) and (b), (2), (3), (4), (5), (6)(c), (7)(a), (8) and (10); HSS 56.07(1), (2)(c), (3), (4)(c), (5)(a) to (i), (9)(a) and (b), (10) and (11); and HSS 56.09.

(b) An applicant or licensee wanting to ask the licensing agency to grant an exception to a requirement in this chapter shall submit the request in writing, stating the specific provision of this chapter for which an exception is requested, the justification for the requested exception and an explanation of any alternative provisions planned to meet the intent of the requirement.

(c) Any exception granted under par. (a) shall be specifically cited on the license and shall be in effect no longer than 2 years from the date on which the exception is granted by which time the licensing agency shall determine if there is continued justification for the exception. In addition, the licensing agency may impose conditions to be met within a specified period of time by the licensee as an alternative to compliance with any requirement for which an exception has been granted.

(d) Any requirement which reads "if required by the licensing agency" shall be met by an applicant or licensee when the licensing agency requires the applicant or licensee to meet that requirement.

HSS 56.02 DEFINITIONS. In this chapter:

(1) "Applicant" means a person who applies for a license to operate a foster home, for renewal of a license to operate a foster home or for modification of a license to operate a foster home.

(2) "Basement" has the meaning prescribed in s. DILHR 51.01(10), namely, that level below the first or ground floor level with its entire floor below exit discharge grade.

(3) "Basic maintenance payment" means an age-related foster care payment to cover the cost of a foster child's food, clothing, housing and personal items.

(4) "Child" means a person under age 18 years of age.

(5) "Child welfare agency" means an agency licensed by the department under ss. 48.60 and 48.75, Stats., to place children in foster homes and to license foster homes.

(6) "Complete bathroom" means a bathroom with at least one toilet, one sink and one tub or shower.

(7) "Corporal punishment" means any type of physical hitting or any type of physical punishment inflicted in any manner upon the body.

(8) "County agency" means a county department of social services under s. 46.215 or 46.22, Stats., or a county department of human services under s. 46.23, Stats.

(9) "Dangerous weapon" means any firearm, any device designed as a weapon and capable of producing death or great bodily harm, any electric device designed to immobilize or incapacitate persons by the use of electric current, or any other device or instrumentality which is calculated or likely to produce death or great bodily harm.

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

(11) "Foster child" means a child placed for care and maintenance in a foster home by the department, a county agency, a child welfare agency or a court.

(12) "Foster home" means any facility operated by a person required to be licensed under s. 48.62, Stats., that provides care and maintenance for no more than 4 foster children unless all the children are siblings.

(13) "Foster parent" means a person with primary responsibility for the care and supervision of one or more foster children placed in his or her home and who is the person or persons referred to as "licensee" in this chapter.

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

(15) "Hazardous machine" means any power-driven machine or other equipment generally known to be dangerous to untrained or unskilled operators or to operators who for any other reason are physically or mentally unable to operate the equipment safely. Hazardous machines include power lawn mowers, tractors, snow blowers, chain saws, power-driven shop tools, corn pickers, and any other machine determined by the licensing or supervising agency to be unsafe for a particular foster child to operate.

(16) "Household member" means any person living in a foster home whether or not related to the licensee.

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

(18) "Licensee" means a person or persons licensed under s.48.62, Stats., and this chapter to operate a foster home.

(19) "Licensing agency" means the department, a county agency or a child welfare agency.

(20) "Living area" means the rooms of the foster home used by household members for sleeping, preparing and eating meals, bathing, toileting and indoor leisure time activities.

(21) "Motor vehicle" means a private automobile, van, bus or truck.

(22) "Physical punishment" means inflicting physical pain on a child by such means as hitting, slapping, spanking, punching, shaking, kicking, biting or washing out a child's mouth with soap.

(23) "Premises" means the foster home and the tract of land on which it is situated, including all other buildings and structures on that land.

(24) "Supervising agency" means the agency responsible for overseeing the care and maintenance of a child placed in a foster home.

HSS 56.03 APPLYING FOR A LICENSE. (1) WHO MUST APPLY. Anyone proposing to provide foster care for children shall apply to a licensing agency for a foster home license. Application shall be made on a form provided by the licensing agency.

(2) LICENSE PROHIBITION. No licensing agency or any of its contracted or subcontracted agencies may issue a foster home license to one of its own employees.

(3) REAPPLICATION FOLLOWING DENIAL OR REVOCATION. No applicant or former licensee previously denied a license or whose license was revoked may reapply for a license within a period of 2 years following the effective date of licensing denial or revocation.

(4) DOCUMENTS REQUIRED PRIOR TO LICENSING. (a) Initial license. Before an applicant for an initial license may be issued a license, the applicant shall submit the following to the licensing agency:

1. An application form completed and signed by the applicant. Married persons living together shall both sign the application;

2. Written authorization for the licensing agency to contact the department of justice or any federal or local law enforcement agency to determine whether the applicant is unqualified to receive a license for any reason specified under s. HSS 56.04(4m)(b);

3. Verification of homeowner's or renter's and vehicle liability insurance coverage required under s. HSS 56.04(5) and (6) or a request for a waiver in accordance with s. HSS 56.04(7). Verification means that the licensing agency representative has personally seen the appropriate documentation. A licensing agency need not retain a copy in its files;

4. Health examination documentation for all household members;

5. References from at least 3 nonrelatives;

6. Documentation of fire safety inspection, if required by the licensing agency;

7. A private water supply test report, if required by the licensing agency;

8. The employment history of the applicant; and

9. Other documentation or authorizations required by the licensing agency for its review of the application.

(b) License renewal. An applicant for renewal of a license shall submit the following to the licensing agency at least 30 days before expiration of the current license:

1. An application form completed and signed by the applicant:

2. Verification of continued homeowner's or renter's and vehicle liability insurance coverage required under s. HSS 56.04(5) and (6) or a request for a waiver in accordance with s. HSS 56.04(7);

3. Documentation of fire safety inspection, if required by the licensing agency;

4. A private water supply test report, if required by the licensing agency;

5. Health reexamination documentation for any or all household members, if required by the licensing agency; and

6. Other documentation or authorizations required by the licensing agency for its review of the application.

(c) License modifications. An applicant for license modification shall submit a completed and signed application form and other required materials to the licensing agency within the following time limits or conditions:

1. Prior to the date that the licensee plans to change location from the location specified on the current license;

2. When an applicant wishes to have one or more license conditions changed;

3. No later than 30 days prior to the date the marital status of the licensee changes;

4. Within 10 days after a household member leaves; and

5. At least 30 days before someone enters the household when this is known that far in advance or otherwise as soon as possible.

(5) ACTION BY THE LICENSING AGENCY. Within 60 days after receiving a complete application for a foster home license, the licensing agency shall either approve the application and issue the license or deny the application. If the application for a license is denied, the licensing agency shall give the applicant reasons in writing for the denial.

(6) EFFECTIVE PERIOD OF A LICENSE. A foster home license shall be effective for a period not to exceed two years and may be renewed.

HSS 56.04 LICENSEE QUALIFICATIONS. (1) GENERAL REQUIREMENTS. (a) A person licensed to operate a foster home shall be a responsible, mature individual who is fit and qualified, who does not abuse alcohol or drugs or have a history of law violations that substantially relate to operating a foster home and who exercises sound judgment and displays the capacity to successfully nurture foster children. The applicant or licensee shall give truthful and sufficient information to enable the licensing agency to verify whether or not he or she meets these requirements. Giving false information or withholding information shall constitute grounds for denial or revocation of the license.

(b) The licensee shall:

1. Be familiar with this chapter and comply with its requirements;

2. Accept foster children for care only in conformity with the conditions specified on the license;

3. Cooperate fully with the licensing agency and any other agency responsible for supervising foster children in the licensee's care and to keep the licensing agency and any other responsible agency informed of each child's progress and problems;

4. Immediately notify the licensing agency of any change in the job of the foster parent who works outside the home and any change in the work schedule of the foster parent who works outside the home. The licensing agency shall assess the impact these changes will have on the licensee's ability to provide foster care.

5. Immediately notify the supervising agency of any life-threatening or serious illness or injury requiring medical treatment for a foster child, the unauthorized absences of a foster child from the home for longer than 8 hours or for a period of time that cannot reasonably be justified by the child's age, maturity or mental and emotional capacity, or any similar crisis related to a foster child;

6. Secure authorization of the supervising agency before taking a foster child out of state for a period longer than 24 hours;

7. Cooperate with efforts of the supervising agency to maintain relationships between foster children and their families and with the agency's efforts to implement plans for care and treatment and for arranging permanency of care as required under s. 48.38, Stats;

8. Allow the supervising agency up to 30 days in which to make alternate placement plans when the licensee asks that a foster child be removed from the home; and

9. Maintain in confidence all personal information about foster children and their families.

(2) AGE. No person younger than 21 years of age may be licensed to operate a foster home, except that a person 18 to 20 years of age may be licensed to care for a relative.

(3) FINANCES. Foster parents shall have a stable income sufficient to meet the family's obligations without reliance on basic maintenance payments received for the care of foster children placed in the foster home. An applicant for an initial license shall provide the licensing agency with verification of compliance with this subsection.

(4) HEALTH. (a) A person licensed to operate a foster home shall be in good health.

(b) The good health of an applicant for an initial license to operate a foster home shall be documented by the applicant presenting to the licensing agency a written statement from a physician that, based upon a medical examination performed within the previous 6 months, the applicant does not have any illness or disability that is likely to threaten the health of foster children or interfere with the applicant's capacity to provide care.

(c) If, at any time, the licensing agency suspects or has reason to believe that the physical or mental health of an applicant, licensee or other household member may pose a threat to the health, safety or welfare of children in care, the licensing agency may require an alcohol and other drug abuse assessment or physical health or mental health evaluation of the person as a condition for licensing or relicensing.

(4m) CRIMINAL RECORD. (a) Before a foster home license is issued or renewed, the applicant for a license or foster parent applying for renewal of a license shall provide written authorization for the licensing agency to contact the department of justice and federal and local law enforcement agencies to determine whether the applicant is unqualified to receive a new license or have an existing license renewed for any reason specified in par. (b).

(b) An applicant or licensee is unqualified to hold a license if the applicant or any other adult living in the household:

1. Is the subject of a pending state or federal criminal charge if the circumstances of the charge substantially relate to caring for children or operating a foster home; or

2. Has been convicted of a felony, misdemeanor or other state or federal offense, the circumstances of which substantially relate to caring for children or operating a foster home.

(c) An applicant or licensee shall immediately notify the licensing agency of any allegations, convictions or determinations specified under par. (b) or investigations of maltreatment of a child under s. 48.981, Stats., relating to the applicant or licensee or any adult member of the applicant or licensee's household.

(5) VEHICLE LIABILITY INSURANCE. An applicant for either initial licensing or for relicensing who plans to transport foster children in his or her vehicle shall provide the licensing agency with documentation of current liability insurance coverage and shall ensure that the insurance coverage continues in force throughout the term of licensure.

Note: If it is anticipated that a foster child will drive the applicant's vehicle, the applicant should contact his or her insurance carrier to ensure that the foster child is covered.

(6) LIABILITY INSURANCE. (a) Before a foster home license is issued or renewed, the applicant for license or foster parent applying for renewal of a license shall furnish proof to the licensing agency of homeowner's or renter's liability insurance as required under s. 48.627(2)(a), Stats.

(b) Each licensing agency shall have on file verification that each foster home licensed by that agency has insurance coverage required under par. (a) and s. 48.627(2)(a), Stats., or shall have on file documentation that the home has been granted a waiver from that requirement in accordance with sub. (7), or has been issued a license for a period not to exceed 90 days to allow

foster parents to obtain necessary documentation to request a waiver in accordance with sub. (7).

(7) WAIVER OF LIABILITY INSURANCE REQUIREMENT. (a) In this subsection, "Wisconsin insurance plan" means the mandatory risk-sharing insurance plan established under s. 619.01, Stats., and s. Ins. 4.10.

(b) A foster parent or an applicant for a foster home license may request a waiver of the requirement under sub. (6)(a) if he or she is unable to obtain the required insurance, the insurance policy that he or she had was cancelled or payment of the premium for the required insurance would cause undue financial hardship.

(c) A request for a waiver shall be sent directly to the licensing agency and shall include one of the following:

1. A written denial of homeowner's liability insurance by an insurance company for a reason other than the poor condition of the property and also a written denial of the same insurance coverage from the Wisconsin insurance plan;

2. A written cancellation of homeowner's liability insurance by an insurance company for reasons other than nonpayment of premiums and a written denial of the same coverage from the Wisconsin insurance plan;

3. A written denial of renter's liability insurance from 2 insurance companies;

4. A written cancellation of renter's liability insurance by an insurance company for reasons other than non-payment of premiums and, in addition, a written denial of the same insurance coverage from one other insurance company; or

5. Documentation that payment of the insurance premium would cause undue financial hardship for the foster parent as evidenced by:

- a. The family receiving aid to families with dependent children (AFDC);
- b. The parent receiving supplemental security income (SSI); or
- c. The family income being at or below the minimum family budget determined by the department for purposes of administering the uniform fee system under ch. HSS 1.

(d) Within 30 days after receipt of a request that is accompanied by the documentation required under par. (c), the licensing agency shall either waive the requirement or deny the request for a waiver, and shall notify the applicant or foster parent in writing of its decision and the reasons for it.

Note: The Wisconsin Insurance Plan is property insurance of the last resort. Foster parents and applicants for foster home license should consider the Wisconsin Insurance Plan only if they cannot obtain conventional insurance

from an insurance company. For information on the Wisconsin Insurance Plan, contact any insurance agency or the Wisconsin Insurance Plan, 744 North Fourth Street, Milwaukee, WI 53203, or phone (414) 276-1616.

HSS 56.05 PHYSICAL ENVIRONMENT. (1) GENERAL REQUIREMENTS. (a) The foster home shall be so constructed, arranged and maintained that it is safe for all occupants, and the health of all occupants is safeguarded. The home shall be large enough and its living areas spacious enough for the number and ages of the foster children and other household members. The home shall have furnishings and equipment necessary to comfortably accommodate both the foster children and other persons living in the foster home. The property on which the foster home is situated, including all other buildings and structures on that property, shall be maintained in a state of good repair and in a sanitary condition so that it is safe for foster home occupants and their health is safeguarded.

(b) The licensing agency may request fire, health, sanitation or safety officials to inspect the home or the entire premises when more expert opinion is necessary to help the agency evaluate the safety of the foster home.

(2) INTERIOR LIVING AREA. An applicant applying for an initial license to operate a foster home on or after [revisor to insert the effective date of this chapter] shall provide a minimum of 200 square feet of living area for each household member, including each foster child.

(3) BATH AND TOILET FACILITIES. (a) An applicant for an initial foster home license or any licensee who changes the location of the foster home on or after [revisor to insert the effective date of this chapter] shall provide at least one complete bathroom for every 8 household members including foster children. Bath and toilet facilities that are accessible only through a sleeping room may be counted only for the occupants of that room.

(b) The door of each bathroom shall have a lock which can be opened from the outside in an emergency.

(4) SLEEPING ARRANGEMENTS. (a) Each foster child shall be provided with a separate bed except that 2 brothers or 2 sisters may share a double bed. Each crib shall have crib slats that are securely fastened in place and are spaced no more than 2 3/8 inches apart. The mattress shall fit snugly so that there are no more than 1 1/2 inches between the edge of the mattress and crib side. Each bed shall be large enough to be comfortable for the child, provide adequate body support, and be equipped with a clean comfortable mattress, with waterproof covering when necessary. The foster child shall be provided blankets that are adequate for the season.

(b) No foster child one year of age or older may regularly share a bedroom with an adult unless a physician determines that is medically necessary and the licensing agency approves.

(c) No foster child 6 years of age or older may regularly share a bedroom with another child of the opposite sex.

(d) Each bedroom occupied by a foster child shall have a minimum floor space of 40 square feet per child, except that a licensee issued a foster home license prior to [revisor to insert the effective date of this chapter] may provide a minimum bedroom space of 35 square feet per child.

(e) No foster child may regularly sleep in any building, apartment or other structure on the premises which is separate from the foster home, nor may any foster child regularly sleep in an unfinished attic, unfinished basement, a hallway or in any room normally used for purposes other than sleeping.

(f) No foster child under the age of 7 years may regularly sleep in a finished basement bedroom or in a bedroom above the second floor of a single family dwelling.

(g) No foster child 7 years or older may regularly sleep in a finished basement bedroom or in a bedroom above the second floor of a single family dwelling unless there are 2 exits to grade from that floor level and provisions have been made for heating, cooling, ventilation and humidity control.

(h) A responsible care provider shall sleep within call of foster children during the night.

(i) Each bedroom occupied by a foster child shall have a door for privacy.

(j) A sleeping room which someone must pass through to get to another part of the building may not be used for a foster child.

(5) TELEPHONE. (a) Each foster home shall have at least one telephone in operating condition which does not require a coin for operation.

(b) Emergency telephone numbers, including fire department, police, hospital, physician, poison control center and ambulance, shall be posted by each telephone in the foster home.

(c) A licensee shall notify the licensing and supervising agencies no later than the end of the next working day when the foster home telephone number is changed.

(6) HEATING. (a) Each foster home shall have a heating system which maintains a comfortable temperature of not less than 65 degrees in living areas.

(b) Unvented gas, oil or kerosene space heaters may not be used in a foster home.

(c) With the exception of a fireplace, unless required by the licensing agency, all wood burning equipment shall be inspected by fire safety experts at least biennially and certified as properly installed and maintained as defined by the manufacturer's recommendations or specifications or other standards utilized by the fire safety expert. The licensee shall forward documentation of compliance with this paragraph to the licensing agency.

(d) No heating equipment may be located so that it blocks or hinders an exit from the foster home.

(7) STORAGE. The licensee shall provide enough drawer and closet space to reasonably accommodate each foster child's clothing and other personal belongings.

(8) OUTDOOR RECREATION AND PLAY SPACE. (a) Each foster home shall have access to outdoor recreation and play space either on the premises or nearby.

(b) A licensing agency may require a licensee to erect a fence around an on-premises play area when nearby vehicle traffic, railroad tracks, a lake, pond or river or a similar hazard presents a threat to the safety of foster children.

(9) MAINTENANCE AND REPAIR. The foster home and all other buildings and structures on the premises and all equipment and furnishings shall be maintained in a safe and proper state of repair, operation and condition. Broken, rundown, defective, inoperative or unsafe building parts, furnishings and equipment shall be promptly repaired, replaced, or disposed of.

(10) SANITATION. (a) The foster home, outside recreation and play space, furnishings and equipment shall be maintained in a clean and sanitary condition.

(b) Windows that are used for ventilation shall be screened.

HSS 56.06 SAFETY. (1) GENERAL REQUIREMENTS. (a) Materials and equipment that may be hazardous to children, such as power tools, flammable or combustible materials, insecticides, household poisons, plastic bags, alcohol and medications, shall be stored in areas not readily accessible to foster children.

(b) The licensee shall make every reasonable effort to identify and immediately correct to the fullest extent possible any hazards to the safety of foster children while the children are in the foster home, on the premises or are being transported.

(2) ELECTRICAL OUTLETS. A licensee caring for a foster child who is under 7 years of age shall maintain protective covers on all electrical outlets not in use.

(3) HOUSEHOLD PETS. (a) Cats, dogs and other pets vulnerable to rabies which are owned by any member of the household shall be vaccinated as required under local ordinance.

(b) Household pets known to be vicious or infected with any disease transmittable to humans may not be kept in the foster home or on the premises.

(4) PRIVATE MOTOR VEHICLE SAFETY. (a) No licensee or person acting on behalf of a licensee may transport any foster child under 2 years of age in any private motor vehicle unless the foster child is secured by an approved child safety restraint as required in s.347.48(4), Stats.

(b) A foster child 2 years of age or over shall be restrained by either an approved child safety restraint or seat belts as appropriate to the child's age and size while being transported by a licensee or person acting on the licensee's behalf.

(5) FIREARMS AND OTHER WEAPONS. (a) Except as allowed under par.(c), no loaded or otherwise dangerous weapon may be kept in a foster home. Unloaded firearms and other dangerous weapons shall be stored and locked in an area not readily accessible to foster children. Ammunition shall be stored and locked separately from weapons in an area not readily accessible to foster children.

(b) Foster children may be permitted to use firearms or bows for hunting or target practice only under the following conditions:

1. The child is at least 12 years of age;
2. The child's parent or guardian has given written consent and the child's foster parents and the supervising agency approve;
3. The child has successfully completed an approved hunter safety training course; and
4. The child is under the supervision of a responsible adult at all times.

(c) If the foster parent is a sworn law enforcement officer who is required to maintain a loaded weapon at all times, the loaded weapon shall be stored and locked in an area not readily accessible to foster children.

(6) HAZARDOUS MACHINERY. (a) No foster child under 14 years of age may operate any hazardous machine.

(b) A foster child 14 years of age or older may operate a hazardous machine but only when a written agreement has been signed by the child, the child's parent or guardian, the foster parents and the supervising agency, with a copy provided to all parties to the agreement.

(c) 1. No foster child may operate any equipment which is beyond his or her knowledge or capability.

2. All hazardous machines to be used by a foster child shall be maintained in safe condition.

3. The foster child shall be supervised by a responsible adult when operating a hazardous machines.

(7) FIRE PROTECTION. (a) The foster home shall have one or more single-station battery operated, electrically interconnected or radio signal emitting smoke detectors on each level of the foster home.

(b) The licensee shall check the operating condition of each smoke detector at least once a month and shall immediately repair or replace any unit or part of a unit found to be inoperative.

(8) FIRE SAFETY EVACUATION PLAN. (a) The licensee shall develop a written plan for the immediate and safe evacuation of the foster home in the event of a fire. The plan shall include the following:

1. The means to be used for emergency exiting from all levels of the foster home; and

2. The place away from the foster home at which all evacuated members of the household shall meet so that it can be determined if all persons are out of danger.

(b) 1. The licensee shall review the fire safety evacuation plan with all household members at least once every 3 months and immediately following placement of a new foster child.

2. The fire safety evacuation plan shall be posted in the home and its location made known to all household members.

(c) At least once every 2 years the licensee shall review the fire safety evacuation plan with the licensing agency and revise the plan if necessary.

(9) FIRE SAFETY INSPECTIONS. If the licensing agency requires it, the foster parent shall arrange for a fire safety inspection by fire safety experts at any time there is cause for concern for the safety of foster children because of conditions in the foster home or elsewhere on the premises.

(10) REPORTING FIRES. The licensee shall report by no later than the end of the next working day to the licensing agency any fire in the foster home or elsewhere on the premises which requires the assistance of the fire department.

(11) SAFETY OF INFANTS AND OF CHILDREN WITH DISABILITIES. The licensing agency may impose additional safety conditions upon a licensee who provides care for very young foster children or foster children with mental or physical disabilities when the age, impaired judgment or mobility of the

children create additional safety risks. Any additional conditions imposed shall be in writing, shall be reviewed jointly by the licensing agency and licensee before taking effect and shall be reviewed by both parties for possible revision as necessary but at least once every 2 years.

(12) STAIRWAYS. Each stairway shall have a handrail.

SECTION 2. HSS 56.07 and 56.08 are created to read:

HSS 56.07 CARE OF FOSTER CHILDREN. (1) PRINCIPLES FOR HUMANE AND NURTURING CARE. The foster parents shall provide humane and nurturing care to each child placed in the foster home. This is care that:

- (a) Ensures that the child is provided a humane physical and psychological environment;
- (b) Is respectful of the child as a person;
- (c) Gives the child room to grow and the maximum of personal and physical freedom appropriate to the child's age and maturity;
- (d) Ensures that foster parents may not deny a foster child access to confidential family planning services;
- (e) Does not discriminate against the child because of the child's race, sex, sexual orientation, color, creed, ancestry, national origin or handicap;
- (f) Ensures that the child receives needed medical care promptly;
- (g) Lets the child participate in community activities of the child's choice, including sports and activities of school, community, social and religious groups, with this participation restricted only by reasonable curfew hours, cost considerations, a court order or for a reason agreed upon by the foster parents and the licensing or supervising agency;
- (h) Gives the child reasonable opportunity to voluntarily participate in religious practices, activities and services of the child's choice or the choice of the child's parents;
- (i) Permits the child to have a reasonable amount of privacy, including freedom from unreasonable searches of his or her room and personal belongings;
- (j) Lets a child keep and wear his or her own clothing as appropriate to the season or setting;
- (k) Permits a child to receive mail, to make and to receive a reasonable number of telephone calls and to visit with family, friends and others unless a visit is contraindicated by the case plan, court order or other controlling document;

(1) Does not inflict or tolerate physical or verbal abuse of the child or physical punishment, ill treatment or harsh and humiliating discipline; and

(m) Does not require a child to perform labor that financially benefits the foster parents without the child's agreement, approval of the child's parent or guardian and approval of the supervising agency.

(2) SUPERVISION OF CHILDREN. (a) The licensee may not combine the care of foster children with regular part-time care of other non-related children or adults or conduct business or provide services in the foster home without the written approval of the licensing agency. Approval by the licensing agency shall depend on the foster parents presenting satisfactory evidence that the additional activities will not interfere with the quality or manner of care provided foster children.

(b) Both foster parents may not be employed away from the home on a full-time, part-time or seasonal basis without written approval of the licensing agency. When there is only one foster parent, that person may not be employed away from the home without written approval of the licensing agency. Approval by the licensing agency for such employment shall depend on the foster parents presenting satisfactory evidence that there are suitable plans for the care of the children during the absence of the foster parent or parents from the home.

(c) Any out-of-home provider of day care for foster children shall be licensed or certified under ch. HSS 45 or 55.

(d) Children under 10 years of age may not be left without supervision by a responsible care provider.

(e) Children 10 years of age and older shall receive responsible supervision appropriate to their age and maturity as might reasonably be provided by a prudent parent in the care of that parent's own children.

(f) Foster parents shall secure approval of the supervising agency before making plans for the care of a foster child by any other person in or away from the foster home for any period in excess of 48 hours.

(g) Foster parents may not regularly provide care for more than 2 children under 2 years of age.

(h) The combined total of foster children, children of the foster parents and other children and non-related adults receiving care in the home may not exceed 8.

(3) HOUSEHOLD CHORES. (a) The foster parents may require a foster child to do household chores appropriate to the child's age, degree of maturity, mental capability, health and physical ability. These duties may not interfere with a child's school attendance, family visits, sleep, studies or religious practice.

(b) Foster children may not be given responsibility for chores which may cause harm to themselves or others.

(4) HEALTH OF FOSTER CHILDREN. (a) Within 30 days after the date that the child is placed in foster care, the foster parents shall arrange for a medical examination of the child and an appropriate reproductive health needs assessment, which shall be provided unless the child has had a medical examination within the previous 12 months, and shall arrange for any immunizations recommended by the family physician and public health authorities or required for school entry under ch. HSS 144 which shall also be provided.

(b) The foster parents shall make sure that every foster child under 5 years of age receives a medical examination and review of immunizations at least once every 12 months.

(c) The foster parents shall notify the supervising agency as soon as possible of any serious illness or any injury requiring medical treatment of a foster child.

(d) The foster parents shall ensure that each foster child who needs medical attention receives appropriate and adequate medical services promptly.

(e) The foster parents shall ensure that a foster child 3 years of age or older who has not had a dental examination or dental treatment during the 12 months before placement receives a dental examination as soon as possible following placement, and that each foster child 3 years of age or older receives a new dental examination within 12 months after the date of the last examination.

(5) DISCIPLINE. (a) Disciplinary action by a foster parent or any other person serving as a substitute caretaker in the absence of the foster parents shall be aimed at encouraging foster children to understand what is appropriate social behavior.

(b) The type of discipline imposed shall be appropriate to the child's age and understanding.

(c) Corporal punishment of foster children is prohibited.

(d) A licensee may not subject any foster child to verbal abuse, profanity, derogatory remarks about the child or his or her family or to threats to expel the child from the home.

(e) A licensee may not permit another child or any other person not responsible for providing care to discipline a foster child.

(f) No foster child may be punished by being deprived of meals, mail or family visits.

(g) No foster child may be punished or ridiculed for bed-wetting or other lapses in toilet training.

(h) No foster child may be punished by being confined in a closet or locked room.

(i) No foster child may be punished by being restricted to an unlocked room or area of the home except as follows:

1. A foster child under 6 years of age may be restricted to an unlocked room or area of the home for not longer than 10 minutes for any episode of misbehavior. The foster child shall be within hearing of a responsible caretaker and shall be permitted use of the toilet if necessary.

2. A foster child 6 to 10 years of age may be restricted to an unlocked room or area of the home for not longer than 30 minutes for any episode of misbehavior. The foster child shall be within hearing of a responsible caretaker and shall be permitted use of the toilet if necessary; and

3. A foster child over 10 years of age may be restricted to an unlocked room or area of the home for up to 2 hours for any episode of misbehavior. The foster child shall be within hearing of a responsible caretaker and shall be permitted use of the toilet if necessary.

(6) CLOTHING. (a) The licensee shall make sure that funds allocated for the purchase of clothing for foster children are used in such a manner that children in the licensee's care are comfortably and appropriately dressed within the limits of the funds. Foster children's clothing shall be maintained in a state of good repair and cleanliness.

(b) Clothing purchased for a foster child or otherwise provided to a foster child with the understanding that the clothing belongs to the foster child shall be the property of the child and shall be given to the child to take when he or she leaves the foster home.

(7) PERSONAL BELONGINGS. Any special equipment and other personal belongings that a child had when he or she was placed in the foster home or that were given to the foster child to keep or received as gifts or that were purchased on behalf of the foster child with public funds, unless they are permanently affixed to the house, may be taken by the child when he or she leaves the foster home.

(8) SPENDING MONEY. Each foster child shall be given spending money each week appropriate to his or her age and maturity and in accordance with the child's case plan established by the supervising agency.

(9) NUTRITION. (a) Each foster child shall be provided at least 3 meals each day except for a child who participates in a meals program at school. A school age foster child who does not participate in a school lunch program shall be provided a sack lunch or be provided lunch at the foster home.

(b) Each foster child shall be provided a quantity and variety of foods sufficient to meet the child's nutritional needs and to maintain his or her health and growth.

(c) No foster child may be forced to eat against his or her wishes.

(10) CHILDREN'S RECORDS. (a) The foster parents shall maintain a record on each foster child. The record shall contain at least the following information:

1. The child's name and any alias by which the child is known;
2. The child's birthdate;
3. The names, addresses and telephone numbers of persons to be notified in an emergency;
4. The date the child was received by the licensee for care;
5. The name, address and telephone number of the person or agency placing the child;
6. The name of the physician to be called in an emergency;
7. Medical information about the child, including occurrences and dates of medical examinations, immunizations, known allergies, illnesses and accidents during the time the child is in the foster home;
8. The name and address of the child's dentist and dates the child received dental care; and
9. If the child attends school while in the foster home, the name of the school and the grades the child received.

(b) The foster parents shall give the foster child's record to the child's supervising agency when the child leaves the foster home.

(c) At the request of the licensing or supervising agency, the foster parents shall make the foster child's record available for inspection by that agency.

(11) CONFIDENTIALITY. The foster parents and other persons in the household having access to confidential information about the foster child and his or her family may not discuss or otherwise disclose that information to anyone while the child is in the foster home or after the child leaves the foster home, except;

(a) To the licensing agency or agency placing the child in the care of the licensee;

(b) By order of a court; or

(c) As otherwise provided by law.

HSS 56.08 HEARING. (1) APPEAL. Any applicant for a license to operate a foster home who is denied a license, or any licensee whose license is revoked or whose application for renewal of license is denied may appeal the decision by asking the department for a hearing in accordance with ss. 227.42 to 227.51, Stats.

(2) REQUEST FOR A HEARING. A request for a hearing shall be addressed to the department's office of administrative hearings. The date of the request for a hearing shall be the date on which the request is received by that office. Any request for a hearing received after 60 days following the decision or order to be reviewed shall be denied.

Note: The request for a hearing should be sent to the Office of Administrative Hearings, P.O. Box 7875, Madison, Wisconsin 53707.

(3) ARRANGEMENTS FOR A HEARING. In response to a request for a hearing under this section, the director of the office of administrative hearings shall appoint a hearing examiner, set a date for the hearing and notify the parties in writing at least 10 days before the hearing of the date, time and place of the hearing and of the procedures to be followed.

SECTION 3. HSS 56.10 is renumbered HSS 56.09.

SECTION 4. HSS 56.15 is renumbered HSS 56.10.

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. 227.22(2), Stats.

Wisconsin Department of Health and
Social Services

Dated: June 21, 1990

By: 
Patricia A. Goodrich
Secretary

SEAL: