

Statement of Scope

Department of Children and Families

Rule Number: Chapter DCF 57

Relating to: Group home licensing

Rule Type: Permanent

This statement of scope was approved by the governor on January 18, 2024.

1. Finding/nature of emergency (for emergency rules only)

NA

2. Detailed description of the objective of the proposed rules

The proposed rules will update the department's licensing rule for group homes in ch. DCF 57. The revisions will focus on the following:

- Adopting modern best practices and supporting provider service delivery.
- Repealing requirements that are no longer considered necessary for the health and safety of children and are overly burdensome to businesses.
- Streamlining and clarifying various licensing processes, including the determination of need, application processes, reporting requirements, and monitoring.
- Including procedures related to statutory changes since the rule was last revised, including fingerprint-based background checks under s. 48.685 (2) (ba), Stats., and qualified residential treatment programs (QRTPs), under s. 48.675, Stats., and ch. DCF 61.

The department will be developing the rule with an advisory committee comprised of representatives from the Wisconsin Association of Family and Children's Agencies (WAFCA), the Wisconsin County Human Services Association (WCHSA), the department's Division of Milwaukee Child Protective Services, tribal child welfare agencies, group homes not represented by WAFCA, parents of children placed in a group home, and the department's Youth Advisory Council.

3. Detailed explanation of statutory authority for the rules

Section 48.67, Stats., provides that the department shall promulgate rules establishing the minimum requirements for the issuance of licenses to, and establishing standards for, the operation of group homes. Those rules shall be designed to protect and promote the health, safety, and welfare of the children in the care of all licensees.

Section 48.625 (1g), Stats., provides that the department shall promulgate rules to implement the requirement that prior to a person applying for a license to operate a new group home or for an amendment to a license that would increase the bed capacity of an existing group home, the department shall review the need for the additional placement resources that would be made available and certify in writing that a need exists.

Section 48.675 (1), Stats., as created by 2021 Wisconsin Act 42, provides that the department may certify a residential care center for children and youth, group home, or shelter care facility to operate a qualified residential treatment program if it determines that the program meets the requirements of 42 USC 672 (k) (4) and any other requirements established by the department under this section. Section 48.675 (2), Stats., provides that the department may promulgate rules for the establishment, certification, operation, and monitoring of, and the placement of a child in, a qualified residential treatment program under sub. (1).

Section 48.685 (9), Stats., provides that the department may promulgate any rules necessary for the administration of the criminal history and child abuse record search requirements in s. 48.685, Stats.

Section 227.11 (2) (a), Stats., expressly confers rule-making authority on each agency to promulgate rules interpreting the provisions of any statute enforced or administered by the agency.

4. Estimate of amount of time that state employees will spend developing the rules and of other resources necessary to develop the rules

1300 hours

5. List with description of all entities that may be affected by the proposed rules

Group home licensees and applicants, county departments of social services and human services, tribal child welfare agencies, child-placing agencies, the department's Division of Milwaukee Child Protective Services, and residents of group homes.

6. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rules:

As a condition of federal reimbursement of state child welfare expenses under Title IV-E of the Social Security Act, 42 USC 671 (a) (10) requires that a state plan provide that group homes are reasonably in accord with recommended standards of national organizations concerned with standards for these homes, including standards related to admission policies, safety, sanitation, and protection of civil rights, and which permit use of the reasonable and prudent parent standard.

42 USC 671 (a) (20) (D) requires that the state plan provide procedures for a group home to conduct criminal records checks on any adult working in the group home, including fingerprint-based checks of national crime information databases.

42 USC 672 (k) (1) and (2) provide that beginning with the 3rd week for which foster care maintenance payments are made on behalf of a child placed in a residential care center for children and youth or group home, no federal payments shall be made to the State for amounts expended for foster care maintenance payments on behalf of the child unless the child is placed in a qualified residential treatment program as specified in 42 USC 672 (k) (4) or other authorized setting.

7. Anticipated economic impact of implementing the rules (note if the rule is likely to have a significant economic impact on small businesses):

The proposed rules will have minimal economic impact on group homes, most of which are small businesses.

Contact Person:

Mary Morse, Mary Morse, Child Welfare Program Specialist, mary.morse@wisconsin.gov, (262) 446-7856.