

Chapter PW-CY 40

CHILDREN AND YOUTH

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## LICENSING DAY CARE CENTERS FOR CHILDREN

**PW-CY 40.10 Introduction.** (1) **STATEMENT OF INTENT.** The intent of these rules is to protect and promote the health, safety and welfare of children in day care centers in Wisconsin.

(2) **EFFECT OF RULES.** The following rules for licensing have the full effect and force of laws as provided in chapter 227, Wis. Stats. These rules do not repeat the laws related to day care licensing. Persons using these rules should also be aware of and familiar with the statutory sections related to these rules so that they are knowledgeable about the requirements of the law as well as the rules.

(3) **TO WHOM THE RULES APPLY.** The rules apply to all day care centers for children.

(4) **EXCEPTIONS TO RULES.** The department may make exceptions to any of the rules for licensing day care centers when it is assured that granting such exceptions is not detrimental to the health, safety and welfare of children.

(5) **DEFINITIONS.** The following words and phrases have the designated meanings:

(a) *Department* unless qualified means the state of Wisconsin department of Health and Social Services.

(b) *Division* unless qualified means the division of family services of the department.

(c) *Rule* means a regulation, standard, statement of policy or general order (including the amendment or repeal of any of the foregoing) of general application and having the effect of law.

(d) *Day Care Center* means a licensed facility where a person or persons provide, for compensation and/or consideration for service, group care for 4 or more children under 7 years of age, for less than 24 hours a day. A day care center may be licensed as:

1. A day nursery, which must meet all the rules for licensing day care centers, or as

2. A nursery school, which must meet the requirements for day nurseries and in addition, for each 25 children, must have at least one staff member certified as a nursery school teacher by the department of public instruction or a staff member who shows evidence of meeting the qualifications required for such certification.

(e) *Compensation* means payment for day care. This payment can be in the form of a cash fee or in the form of consideration for service performed.

**History:** 1-2-56; r. and rec. Register, October, 1961, No. 70, eff. 11-1-61; r. and rec. Register, August, 1970, No. 176, eff. 3-1-71.

**PW-CY 40.11 Organization and administration.** (1) **PURPOSE.** (a) Each day care center shall set forth a clearly defined statement of purpose which shall be filed with the department. If the center is incorporated, the constitution and by-laws may be filed with the department in place of the statement of purpose.

(2) **ADMINISTRATION.** (a) The board of directors or the owner shall be legally responsible for the operation of the center and for meeting the rules.

(13) **SUBPOENAS.** The director of the division for children and youth may sign and issue subpoenas, whether he is to conduct the hearing or not.

(14) **PREHEARING CONFERENCES.** Prehearing conferences may be held at the convenience of the parties and shall be conducted by the director of the division for children and youth or other member or employe of the division designated by him, who shall keep and preserve a record of any agreement as to the issues or stipulation or admission of fact which may be made at such conference. Such record shall be attached to the file and constitute a part of the official record of the case.

(15) **ARGUMENTS.** Except as provided in section 227.12, Wis. Stats., arguments shall be submitted to the department in writing, unless otherwise ordered. Five copies of such written arguments shall be filed with the director of the division for children and youth. The time for filing arguments shall be fixed by the officer presiding at the hearing.

(16) **VARIANCES.** The provisions of section 263.28, Wis. Stats., with reference to variances between the allegations and the proof, shall apply to proceedings under these rules.

**PW-CY 40.30 Adoptions.** (1) **SERVICES OF ADOPTION AGENCIES TO THE ADOPTIVE CHILD AND ITS NATURAL PARENTS SHALL INCLUDE:**

(a) The agency shall provide opportunity for discussion of the situation to help the family and the agency determine whether the services of the agency are suitable.

(b) An agency accepting responsibility for the natural family and child shall offer casework services to natural parents.

(c) In considering plans for their child, parents shall be told about the alternatives of keeping or releasing the child: They shall be informed about the appropriate resources and shall be helped to an understanding of the implications of the choice they make.

(d) If the decision is to give up the child, the agency shall help the parent and the child throughout the process of separation.

(e) In making the investigations required by section 48.88 (2) (a), Wis. Stats., and in exercising its authority under sections 48.61 (3), (5) and 48.64, Wis. Stats., the agency shall obtain pertinent information about the family, its religious, cultural, social and economic background and the health, personalities and capacities of individual members.

(f) In accord with sections 48.61 (3), (5), and 48.64, Wis. Stats., a careful study shall be made of the child's individual characteristics and his capacities and potentialities for growth.

(g) A general physical examination (and special tests and examinations as indicated) by a licensed physician shall be given the child.

(h) Before the child is placed for adoption, the agency shall be certain that all rights of the parent or parents have been permanently terminated pursuant to section 48.40, Wis. Stats., or that the child has no parents.

(i) At the time of the termination of parental rights, the agency shall make certain that guardianship is established pursuant to section 48.43, Wis. Stats.

(2) SERVICES OF ADOPTION AGENCIES TO ADOPTIVE APPLICANTS SHALL INCLUDE: (a) Written or personal inquiries about adoption shall be handled expeditiously and an appointment for an initial interview with a social worker made as soon as possible.

(b) The agency shall make known and explain the content, meaning and purpose of its policies and practices.

(c) Agencies serving children who need adoptive homes shall interpret to adoptive applicants the needs of such children for normal home life.

(d) The agency shall give the couple information about adoption as it relates to them.

(e) The agency shall seek to understand the couple's motivation for adopting children.

(f) If the couple is childless, the agency shall seek to ascertain the reason for their childlessness and its significance for them.

(g) Through this study, the agency shall determine the couple's maturity; their health; their capacity for loving the child and insuring his acceptance by the community, for providing moral and spiritual guidance, a happy and stable home, reasonable financial security; and shall secure information concerning the couple's relatives and friends.

(h) The agency shall determine through their study the sort of child whose needs the family can best meet.

(i) The caseworker shall give information regarding agency procedures and discuss with the applicants how they will work together during the study, placement, and supervisory period.

(k) Appropriate medical opinions shall be secured regarding the health of adoptive applicants.

(l) There shall be sufficient interviews with the husband and wife together and separately to achieve the purposes of the home study.

(3) THE PLACEMENT PROCESS FOR ADOPTIVE CHILDREN SHALL INCLUDE: (a) When a child is ready for adoptive placement, the evaluation of his potentialities and needs shall be considered in relation to the evaluations of the homes studied. The home best suited to the particular child shall be chosen.

(b) The child, his personality, potentialities and needs shall be discussed with the selected adoptive parents.

(c) If these discussions result in agreement to continue the placement process, arrangements shall then be made for the selected adoptive parents to see the child and become acquainted with him.

(d) Time shall be allowed for the selected adoptive parents to consider and discuss their reactions to the child.

(e) If the agency concludes that the reactions of the selected adoptive applicants and the child are satisfactory, arrangements for placement may be made.

(f) The agency which places the child in an adoptive home shall secure the signatures of the applicants to an agreement in conformity with section 48.64, Wis. Stats., which shall insure the right of the agency to visit the child, give directions for his care, evaluate his adjustment, and, if necessary, remove the child at the discretion of the agency. The worker shall explain the significance of this agreement.

(g) The worker shall prepare the family for the supervisory period by giving further information regarding procedure and their relationship to the agency.

(4) SUPERVISION BY THE ADOPTION AGENCY AFTER PLACEMENT OF AN ADOPTIVE CHILD UNTIL ITS ADOPTION SHALL INCLUDE: (a) The agency shall provide casework service after the child is in the home in order to evaluate the placement and to assist in the adjustment between the child and the family.

(b) The agency shall remove the child from his adoptive home when his best interests demand such removal.

(c) The agency shall see to it that the adoptive parents are informed of the nature of the court hearing, and of the responsibility of the parents and the agency in completing the legal adoption.

**History:** 1-2-56; am. (1) (e), (f), (h), (i) and (3) (f) and r. (2) (j). Register, July, 1966, No. 127, eff. 8-1-66.

## LICENSING AND OPERATION OF CHILD WELFARE AGENCIES (CHILD PLACING)

**PW-CY 40.40 Organization and administration.** (1) **PURPOSE.** Each child placing agency shall: (a) Define its purpose and functions broadly in articles of incorporation or in a written constitution and by-laws. The articles of incorporation or the constitution and by-laws shall state in general terms the geographic area to be served, the types of children to be accepted for care, and the services to be provided.

(b) File a copy of the articles of incorporation, if any, or a copy of the constitution and by-laws, and amendments thereto, with the department.

(c) Prior to the establishment of a new agency, or the changing of the basic program of an existing agency, consult with the department.

(d) Submit to the department, prior to the issuance of a license, an application listing specifically the kind of children to be served and details about the services offered. The application form shall be supplied by the department.

(2) **BOARD.** Every agency shall be governed by a board which is responsible for the proper conduct of the agency according to its defined purpose. The board shall: (a) Be accountable to the department for the maintenance of standards as prescribed by these rules.

(b) Meet regularly and keep minutes of each meeting which shall be made a part of the permanent records of the agency.

(c) Select and employ an executive to whom the responsibility for administration of the agency shall be delegated and, when necessary, terminate his employment.

(d) Assume responsibility, jointly with the executive, for formulating the plans and policies of the agency; but neither the governing board, nor committees thereof, shall operate the agency directly.

(e) Keep sufficiently informed through the reports of its executive and committees and through board meetings, to see that the agency fulfills all its functions in the best interests of the children served.

(3) **FINANCING.** Each agency shall: (a) Have a sound plan of financing to assure sufficient funds to enable it to carry out its defined purposes and provide proper care for children.

(b) Have sufficient funds assured to carry it through its first year of operation and be able to furnish evidence to that effect.

(c) Maintain financial records of all receipts, disbursements, assets and liabilities.

(d) Provide for an annual audit of all accounts by an auditor who is not in the employ of the agency nor a member of the board. The report of the audit shall be made a part of the agency records.

(e) Furnish financial records or financial statements to the department upon request.

**History:** Cr. Register, August, 1957, No. 20, eff. 9-1-57.

**PW-CY 40.41 Personnel and personnel practices. (1) PERSONNEL.**  
 (a) *Employees.* All employees shall be persons of good character, good health, emotional stability and of sufficient ability and education to carry out their assigned duties.

(b) *Executive.* There shall be an executive who shall: 1. Be competent to administer the agency according to its stated objectives and have the qualifications of a casework supervisor, if none is employed.

2. Be responsible for administering the policies established by the board.

(c) *Social work staff.* 1. Each agency shall have sufficient social work staff to provide satisfactory services.

2. Supervisors and caseworkers who are employed shall have professional training acquired through graduation and by degree from a recognized school of social work. This shall not apply to persons employed in social work positions in licensed child welfare agencies in Wisconsin at the time these standards become effective.

3. The casework supervisor, if employed, shall possess above average ability in casework practice and have knowledge of and skill in casework supervision. He or she shall have had at least 3 years of supervised experience as a caseworker in a recognized family or child welfare casework agency.

4. Caseworkers shall possess knowledge of casework principles and practices and shall have the ability to apply these in child welfare practice.

5. Persons (case aides) who have a liking for and an interest in working with people may assist the caseworkers with certain functions. Employees in this classification must have qualified supervision. They shall be college graduates. They shall not assume the full responsibilities and duties normally assigned to professionally trained caseworkers.

6. Social work students when placed in an agency shall work under qualified supervision for the purpose of training and experience, but shall not be considered or used as a substitute for employed staff.

(d) *Clerical services.* Every agency shall have adequate clerical services to keep correspondence, records, bookkeeping and files current and in good order.

**(2) PERSONNEL PRACTICES.** (a) Each agency shall have a written statement of personnel practices adopted by the board. This statement shall be available to and made known to each employee at the time of employment.

(b) There shall be for each position or type of position below the executive a salary range equivalent to prevailing rates of pay and commensurate with the duties and responsibilities of the position. This shall be reviewed annually.

(c) Increases in salary within the salary range shall be made in relation to the quality of service.

(d) A personnel record shall be maintained for each employee or staff member.

**History:** Cr. Register, August, 1957, No. 20, eff. 9-1-57.

**PW-CY 40.42 Social services. (1) INTAKE AND SOCIAL STUDY.** Each agency shall: (a) Adopt written policies in regard to acceptance of children for placement in foster care.

(b) Secure and record social information to determine that placement of a child in foster care is for the best interest of the child, before making such placement. In the rare instance of emergency, provision shall be made for temporary care until the intake study can be completed and a decision made regarding continuing care.

(c) Accept a child for placement only from a parent or parents, guardian, or a court of competent jurisdiction or, upon a specific written authorization by one of these to place the child, as only these have the right under the law to contract for a child's placement. An exception may be made only in the case of an emergency when the parents or guardian cannot be located. Every effort shall be made to locate promptly the child's natural protectors. If they cannot be located the agency shall not continue to care for a child without legal authority but shall inform the appropriate court immediately.

(d) In cases of joint custody, accept a child from both parents, but not from one parent or guardian alone.

(e) Except for children who are physically or mentally handicapped or emotionally disturbed, place no child under 3 years of age in a child caring institution, unless there is an established plan in operation which assures replacement of the child out of the institution within 30 days.

(f) Except for children who are physically or mentally handicapped or emotionally disturbed, place no child over 3 but under 6 years of age in a child caring institution, unless there is an established plan in operation which assures replacement of the child out of the institution within 3 months.

(g) Prior to the acceptance of a child for placement from his parents or guardian, obtain written authorization and agreement for

1. Care of the child by the agency,
2. Routine and emergency medical and surgical care,
3. Payment for care.

(2) SUPERVISION AND SERVICES TO CHILDREN. The agency shall make provision for continuing social services to the child, to his parents and to the foster parents while the child is in placement.

(3) FOSTER HOME CARE. Each agency shall: (a) Use only those foster homes and child caring institutions which are licensed under the laws of the state of Wisconsin or under the laws of the state in which such foster homes or child caring institutions are located.

(b) After giving due consideration to the emotional and physical needs and religious background of the child and his parents select a foster home or child caring institution wherein the care given will be for the child's best interests.

(c) Place a child in a home which meets the foster home standards as prescribed by the department.

(4) ADOPTIONS. Each agency licensed to make adoptive placements shall follow the standards prescribed by the department in the regulations relating to adoptions.

(5) DISCHARGE FROM CARE. Each agency shall: (a) When care is terminated release a child only to the child's parents or guardians, or to a court of competent jurisdiction, or upon the written authorization of one of these. If a child has been received for care upon court order the child shall not be released to other persons except upon court order.



(b) Provide service to the family and child prior to the return of the child to his parents or relatives. Arrangements shall be made for adequate follow-up service and supervision according to their needs.

(c) Provide the parents or agency receiving the child with pertinent health information and, when indicated, with the name of the physician who has been providing medical care.

**History:** Cr. Register, August, 1957, No. 20, eff. 9-1-57.

**PW-CY 40.43 Program of child care.** (1) **EDUCATION.** Full time school attendance is required of all children as specified in the laws of Wisconsin.

(2) **RELIGION.** Each agency shall: (a) Provide children with opportunity for moral and religious education and experience according to the religious belief of the child or his parents.

(b) Have defined policies concerning religious training for the information of those wishing to place children with it.

(c) Except for grave reasons place children in foster homes on the basis of their major religious groupings as, for example, Catholic, Protestant, Jewish.

(3) **HEALTH CARE.** (a) *General health program.* Each agency shall: 1. Take steps so that every child, after a thorough health appraisal, shall be rehabilitated, if indicated, to the fullest extent possible.

2. Follow all state and local health regulations.

3. Obtain from the parent or guardian of every child accepted for care a written authorization for emergency surgical or medical care, for necessary vaccinations and immunizations, for routine medical examinations and for hospitalization, if indicated.

4. Provide for the health care of children accepted for placement taking into consideration the religious affiliations or the expressed wishes of the parents and the child.

(b) *Admission examination.* 1. A complete physical examination covering the items included on form entitled "Health Examinations by Physicians", shall be done within 48 hours prior to the acceptance of a child for placement. In case of an emergency, a child may be accepted for placement with a preliminary examination and health history adequate for the determination of communicable disease or infestation with vermin within 48 hours of placement, but a thorough examination shall then be given within 72 hours after placement.

2. The initial admission examination shall include: a. health history of the child: developmental history; previous illnesses, injuries and operations; previous immunizations; social, emotional and environmental history.

b. Health history of the child's family including social, mental or emotional problems.

c. A thorough physical examination covering items included on form entitled "Health Examinations by Physicians". Tests for visual and auditory acuity shall be made when the age and development of the child permits. Psychological and psychiatric evaluation shall be made, if indicated.

d. The following tests unless the results of similar tests performed within 6 months prior to acceptance for placement can be obtained: blood tests for syphilis; when reasonably practical stool examination

for parasites and cultures for bacteria; tuberculin test, and chest x-ray if indicated.

3. The physician making the examination shall report his results in writing and in enough detail to show: a. The child's physical condition and state of development.

b. Freedom from or presence of communicable disease.

c. The child's ability to take part in group activities or a schedule of permitted activities when these need to be limited.

d. Recommendations and orders for future care and examinations.

(c) *Immunizations.* Each child taken under care shall be or shall have been vaccinated for smallpox and immunized against diphtheria and tetanus. Each child under 5 years of age shall be or shall have been immunized against whooping cough. Each child under care shall be or shall have been protected against polio. Initial immunizations and booster injections shall be carried out as recommended by the state board of health.

(d) *Medical examinations.* Each agency shall provide for each child, annually, a complete health examination covering items included on form entitled "Health Examinations by Physicians".

(e) *Medical care.* Each agency, or others responsible, shall make provisions for prompt treatment in case of illness and for carrying out corrective measures and treatment of remediable defects or deformities. Agencies shall make every effort to provide and secure funds and services to pay for medical, nursing and hospital care, for the correction and treatment of remedial defects or deformities. They shall not, however, be held financially responsible for expensive medical and dental care if parents or courts refuse to pay. Psychiatric treatment of emotional disturbances shall be provided when resources are available.

(f) *Dental care.* 1. Each agency shall make provision for adequate dental examinations and re-examinations and treatment, including necessary prophylaxis, repair and extractions.

2. Each child under care shall have a thorough dental examination as soon as practical after acceptance for placement and at least once a year thereafter.

3. At the time of discharge the child's current dental record shall be made available to the parent or the agency responsible for planning for the future dental care of the child.

(g) *Hospitalization.* 1. Each agency shall make provision and establish procedures for hospitalization of the children under care.

2. At the time of acceptance for placement a blanket authorization for the provision of medical and surgical care and hospitalization, and for immunizations, shall be secured from the parents or guardian.

(h) *Special care.* The agency shall inform foster parents of the expected precautions to be taken by them in the handling of medicines and prescriptions so that treatment or medication shall be given only upon the order of a physician, except for first aid treatment in case of an accident.

(i) *Medical records.* A separate health record shall be maintained for each child which includes the items on form entitled "Health Examinations by Physicians". The following items shall be included in the child's health record:

1. Signed authorization for regular and emergency medical and surgical care or for immunizations or hospitalization, if indicated.

2. Report of admission physical examination and recommendations, including the previous and continuing health and medical history of the child.

3. Reports of periodic re-examinations and recommendations.

4. Record of dental examinations showing dates and by whom given.

(j) *Clothing*. 1. The agency shall furnish adequate clothing for each child under care. Shoes shall be fitted to the individual child. Children shall be treated as individuals in the selection of clothing.

2. Clothing shall be suited to the existing climatic and seasonal conditions, be of proper size, of the character usually worn by children in the area, and adequate in amount to permit cleaning and repair.

(k) *Reports*. The death or serious injury of any child under care shall be reported to the department within 48 hours.

**History:** Cr. Register, August, 1957, No. 20, eff. 9-1-57.

**PW-CY 40.44 Records and reports.** (1) **GENERAL REQUIREMENTS.** Each agency shall maintain records and submit reports prescribed by the department. Authorized representatives of the department shall have access to all records and shall respect their confidential nature in accordance with section 48.78, Wis. Stats.

(2) **RECORDS.** Records which every agency shall maintain are:

(a) A permanent register of all children accepted for service or placement.

(b) Individual case records for each child served and his family.

(c) Individual foster home records for each foster home used by the agency.

(d) Health records of children.

(e) Personnel records.

(f) Financial reports and audits.

(3) **REPORTS.** Reports which each agency shall submit to the department are:

(a) Quarterly statistical report (form CY16).

(b) Social data card for each child accepted for care (form CY22).

(c) Social data change sheet for each child when need for this is indicated (form CY22A).

(d) Stubs of foster home licenses when issued by the agency.

(e) Reports of offer of service to unmarried mothers, if indicated (form CY17A).

(f) Each agency shall make a report to the department within 48 hours after the occurrence of an unusual incident, such as the death or serious injury of a child, or his alleged abuse or exploitation.

(g) Financial records or financial statements upon request.

**History:** Cr. Register, August, 1957, No. 20, eff. 9-1-57.