

Chapter PW-CY 40

CHILDREN AND YOUTH

PW-CY 40.10	Introduction	PW-CY 40.56	Records and reports
PW-CY 40.11	Organization and administration	PW-CY 40.60	Licensing foster homes
PW-CY 40.12	Personnel	PW-CY 40.61	Foster parents and their families
PW-CY 40.13	Physical plant and furnishings	PW-CY 40.62	Foster homes
PW-CY 40.14	Program	PW-CY 40.63	Care of children
PW-CY 40.20	Revocation of licenses, or certifications	PW-CY 40.65	Fair hearings
PW-CY 40.25	Rules for the approval of start-up grants for the expansion of child care in Wisconsin	PW-CY 40.70	Definitions
PW-CY 40.40	Introduction	PW-CY 40.71	License
PW-CY 40.41	Organization and administration	PW-CY 40.72	Personnel standards
PW-CY 40.42	Personnel administration	PW-CY 40.73	Program standards
PW-CY 40.43	Social services	PW-CY 40.74	Site, facilities and equipment standards
PW-CY 40.44	Records and reports	PW-CY 40.75	Administration standards
PW-CY 40.50	Introduction	PW-CY 40.76	Health standards
PW-CY 40.51	Organization and administration	PW-CY 40.77	Food standards
PW-CY 40.52	Personnel administration	PW-CY 40.78	Sanitation standards
PW-CY 40.53	Building, grounds and equipment	PW-CY 40.79	Safety standards
PW-CY 40.54	Child care and development	PW-CY 40.80	Transportation standards
PW-CY 40.55	Social services	PW-CY 40.90	Rules for licensing group foster homes for children
		PW-CY 40.91	Administration and management
		PW-CY 40.92	Personnel
		PW-CY 40.93	Child care
		PW-CY 40.94	Physical plant and environment
		PW-CY 40.95	Recording and reporting

PW-CY 40.01 Definitions. History: 1-2-56; r. Register, August, 1970, No. 176, eff. 3-1-71.

PW-CY 40.02 Licensing. History: 1-2-56; r. Register, August, 1970, No. 176, eff. 3-1-71.

PW-CY 40.03 Personnel standards. History: 1-2-56; r. Register August, 1970, No. 176, eff. 3-1-71.

PW-CY 40.04 Educational program standards. History: 1-2-56; r. Register, August, 1970, No. 176, eff. 3-1-71.

PW-CY 40.05 Health standards. History: 1-2-56; r. Register, August, 1970, No. 176, eff. 3-1-71.

PW-CY 40.06 Administration standards. History: 1-2-56; r. Register, August, 1970, No. 176, eff. 3-1-71.

PW-CY 40.07 Equipment standards. History: 1-2-56; r. Register, August, 1970, No. 176, eff. 3-1-71.

PW-CY 40.08 Physical plant standards. History: 1-2-56; r. Register, August, 1970, No. 176, eff. 3-1-71.

PW-CY 40.09 Sanitation standards. History: 1-2-56; r. Register, August, 1970, No. 176, eff. 3-1-71.

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 recr. Register, October, 1961, No. 70, eff. 11-1-61; r. and recr. 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.

HEALTH AND SOCIAL SERVICES

169

(c) Foster parents shall notify the legal custodian as soon as possible of emergencies involving the foster child. This includes serious illness or injury requiring medical treatment, unauthorized absence from the home, or other situations of which prudence suggests the legal custodian be notified. This requirement in no way relieves foster parents from first taking action such as obtaining emergency medical treatment for the child before notifying his legal custodian.

(d) Foster parents shall allow the legal custodian a minimum of 30 days in which to make suitable plans for the child when the foster parents have requested the child's removal from their home.

(e) Foster parents shall secure the approval of the child's legal custodian before making plans for the care of the child by other persons for any period in excess of 48 hours.

(f) No child in care shall be permitted to use or be known by the foster parents' surname unless the child's parents or guardian give their consent in writing, or the child's name is changed under section 296.36, Wis. Stats.

(g) Foster parents shall cooperate with the child's legal custodian in seeing that an appropriate relationship is maintained between the child and his relatives.

(h) Foster parents shall maintain in confidence all information detrimental to children in their care.

(11) RECORDS TO BE MAINTAINED BY FOSTER PARENTS. (a) Foster parents shall maintain during the time a child is in their care, a record on forms provided by the department. Such records shall contain the following information:

1. Child's name or alias by which he is known.
2. Child's birthdate.
3. Name of the person or agency to be notified in an emergency.
4. Date child received for care.
5. Person or agency placing the child.
6. Name of physician to be called in an emergency.
7. Medical information about the child while in their care such as medical examinations and immunizations, illnesses and accidents, including dates of each.
8. Name of dentist and dates child seen.
9. Name of school and grades attended.

b. At the request of the licensing agency or the department, foster parents shall make available for inspection such records of children received by them for care.

History: Cr. Register, April, 1967, No. 16, eff. 5-1-67; r. and recr. Register, June, 1970, No. 174, eff. 1-1-71.

PW-CY 40.64 Additional exceptions to the legal limit of 4 unrelated children.
History: Cr. Register, April, 1957, No. 16, eff. 5-1-57; r. and recr. Register, June, 1970, No. 174, eff. 1-1-71. r. Register, March, 1976, No. 243, eff. 5-1-77.

PW-CY 40.65 Fair hearings. (1) **LEGAL BASIS.** This rule is adopted pursuant to section 48.64(4) (a), Wis. Stats.

(2) **DEFINITIONS.** (a) A claimant means a person licensed to operate a foster home under section 48.62, Wis. Stats., affected by a decision or order issued by a division of the department of health and social services, a county welfare department or a child welfare agency.

(b) A hearing is defined as an orderly, readily available proceeding before an impartial employe of the state agency, in which a dissatisfied claimant or his representatives may present his case with the help of witnesses to show why action or inaction in his case should be corrected by the state agency; it is a continuation of the administrative process in which the claimant invokes the responsibility of the state agency through a quasi-judicial hearing in the particular case.

Note: Impartial employe of the state agency is currently defined as a hearing officer of the legal section of DFS.

(c) A request for a hearing is defined as any clear expression on the part of the claimant to the effect that he wishes to go beyond the usual procedure for adjusting complaints with a division of the department of health and social services, a county welfare department or a child welfare agency, and that he wants an opportunity to present his case to the department of health and social services. The specific wording of such a request is immaterial.

(d) The date of the request for hearing is defined as the date on which the request is received.

(3) **PURPOSES.** The major purposes of hearings are:

(a) To provide an opportunity for a dissatisfied claimant to appeal a decision or order issued by a division of the department of health and social services, county welfare agency, or a child welfare agency affecting the claimant or the children involved.

(b) To enable the county and claimants, jointly, to ascertain the factual basis on which, through proper application of the law and agency policy, a just decision may be reached.

(c) To contribute to uniformity in the application of the law and policy by assuring that every claimant is fully informed of his rights, that hearings on any grievance are readily available, and that instances of inequitable treatment are speedily remedied by prompt execution of hearing decisions.

(d) To safeguard claimants from mistaken, negligent, unreasonable or arbitrary action. The hearing process is not a substitute for proper and efficient administration and is not designed to produce any result that could not have been produced through regular administrative processes.

(e) To reveal aspects of a division of the department of health and social services, a county welfare department or a child welfare agency policy that constitute a misconstruction of law, state rules or policy.

Register, March, 1976, No. 243
 Public Welfare