

Chapter HSS 45

FAMILY DAY CARE CENTERS FOR CHILDREN

HSS 45.01	Introduction	HSS 45.06	Child
HSS 45.02	Definitions	HSS 45.07	Additional requirements for infant and toddler care
HSS 45.03	Operational requirements	HSS 45.08	Licensing administration
HSS 45.04	Day care provider	HSS 45.09	Complaints
HSS 45.05	Home		

HSS. 45.01 Introduction. (1) **AUTHORITY AND PURPOSE.** This chapter is promulgated under the authority of s. 48.67, Stats., to carry out licensing requirements under s. 48.65, Stats., for family day care centers. The purpose of this chapter is to protect the health, safety and welfare of children being cared for in family day care centers.

(2) **TO WHOM RULES APPLY.** This chapter applies to all family day care centers, but does not include:

(a) Care and supervision of children in a program including religious education classes, which operates 4 or less hours a week;

(b) Group lessons to develop a talent or skill, such as dance or music, social group meetings and activities and group athletic activities;

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

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

(e) Care and supervision in emergency situations; or

(f) 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.

(3) **EXCEPTION.** The department may grant an exception to a requirement of this chapter when it is assured that granting the exception will not jeopardize the health, safety or welfare of any child served by the center. A request for an exception shall be in writing, shall be sent to the department and shall include justification for the requested action and a description of any alternative provision planned to meet the intent of the rule.

Note: A request for an exception to a requirement of this chapter should be sent to the regional licensing representative of the Department's Division of Community Services. See Appendix A for addresses of the regional offices.

History: Cr. Register, August, 1989, No. 404, eff. 9-1-89.

HSS 45.02 Definitions. In this chapter:

(1) "Compensation" means salary, wages or other material consideration, such as gifts or compensatory labor, received for the care and supervision of children. "Compensation" does not include payments made by 2 or more parents who have entered into a cooperative arrangement for the exchange of child care and supervision when payments are for the actual cost of equipment, supplies or facilities incidental to the operation of the cooperative arrangement.

(2) "Complaint" means an allegation of violation of this chapter or ch. 48, Stats.

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

(4) "Family day care center" or "center" means a place where a person, other than a parent, relative or guardian, provides care and supervision for 4 to 8 children under 7 years of age for less than 24 hours a day and for compensation.

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

(6) "HealthCheck provider" means a provider of health assessment and evaluation services eligible to be certified under s. HSS 105.37 (1) (a).

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

(8) "In care" means enrolled in the center, with the center providing for the safety and the developmental needs of the child or children.

(9) "Licensee" means the individual or other legal entity which has legal and financial responsibility for the operation of a center and for meeting the requirements of this chapter. The licensee will ordinarily but not always be the provider.

(10) "Licensed physician" means a physician licensed under ch. 448, Stats.

(11) "Licensing representative" means a department employe responsible for licensing family day care centers.

(12) "Parent" means either "parent" as defined in s. 48.02 (13), Stats., or "guardian" as defined in s. 48.02 (8), Stats.

(13) "Premises" means the tract of land on which the center is located, including all buildings and structures on that land.

(14) "Provider" means an adult in a family day care center who provides care and supervision of the children.

(15) "Regional administrator" means the head of one of the 6 regional offices of the department's division of community services.

(16) "School-age child" means a child 5 years of age or older who is enrolled in a public or private school.

(17) "Sleeping bag" means a padded fabric bag that is closed or capable of being closed on 3 sides.

(18) "Supervision" means guidance of the behavior and activities of children for their health, safety and well-being by a provider who is within sight or sound of the children.

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

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

History: Cr. Register, August, 1989, No. 404, eff. 9-1-89.

HSS 45.03 Operational requirements. (1) **TERMS OF LICENSE.** (a) The number of children in the care of a family day care center at any one time may not exceed the number for which the center is licensed under s. HSS 45.08 (1) (g) or (2).

(b) The age of children served by a center may not be younger or older than the age range specified in the license issued under s. HSS 45.08 (1) (g) or (2).

(c) The hours, days and months of a center's operation may not exceed those specified in the license issued under s. HSS 45.08 (1) (g) or (2).

(2) **ADMINISTRATION.** A licensee shall:

(a) Comply with all applicable statutes;

(b) Comply with all requirements in this chapter;

(c) Provide written information to parents on enrollment policies, including admission and termination policies and procedures; fees charged; absence policies; health care; nutrition; daily activities of the children; discipline; and religious instruction or practices, if any;

Note: Under the state public accommodation law, s. 942.04, Stats., federal law and regulations related to use of federal funding, and some local anti-discrimination ordinances, denying admission on the basis of race, handicap, religion or certain other characteristics may be illegal.

(d) Provide written information to parents on the extent of insurance coverage on the premises, on the day care operation and on vehicles when transportation is provided;

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

(f) Maintain on file a completed staff record for each provider on forms provided by the department.

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

(a) Any accident resulting in the death or serious injury requiring professional medical treatment of a child while in the care of the center, within 48 hours after the occurrence; and

(b) Any damage to the center which may affect compliance with this chapter, within 24 hours after the occurrence.

(4) **PARENTS.** (a) The center shall permit parents to visit and observe at any time during the center's hours of operation.

(b) The provider shall give parents of each enrolled child a summary of this chapter.

Note: Copies of a summary of this chapter may be obtained from any regional office of the Department's Division of Community Services. See Appendix A.

(5) **CHILDREN'S RECORDS.** (a) The licensee shall maintain a current written record at the center on each child enrolled and shall make the

record available to the licensing representative on request. Each record shall include:

1. Enrollment information on a form prescribed by the department;
2. Parental authorization for the child to participate in and be transported for field trips and other activities if these are part of the program;
3. A written agreement, signed by the parent, outlining the plan for a school-age child to come to the center from school, home and other activities and to go from the center to school, home and other activities;
4. Documentation of each child's:
 - a. Health and immunization history; and
 - b. The most recent physical examination, except for a school-age child; and
5. Written permission from the parents under s. HSS 45.06 (6) (f) for medical attention to be sought for the child if the child is injured.

(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 medical log book with a stitched binding and shall record in it any injuries received by a child or medication dispensed to a child.

(6) **REPORTING CHILD ABUSE.** (a) A licensee or provider who knows or has reasonable cause to suspect that a child has been abused or neglected as defined in s. 48.981 (1), Stats., shall immediately contact the county department of social services or human services or local law enforcement agency in compliance with s. 48.981, Stats.

(b) The licensee shall ensure that every provider has received training in:

1. Child abuse and neglect laws;
2. Identification of children who have been abused or neglected; and
3. The process for reporting known or suspected cases of child abuse or neglect.

(7) **CONFIDENTIALITY.** The licensee is responsible for compliance by the center with s. 48.78, Stats., which requires that information about children in care be kept confidential.

History: Cr. Register, August, 1989, No. 404, eff. 9-1-89.

HSS 45.04 The day care provider. (1) **QUALIFICATIONS.** (a) *Minimum age.* The family day care provider shall be at least 18 years of age.

(b) *Training.* 1. The provider shall have satisfactorily completed 40 hours or 3 credits of early childhood training approved by the department within 6 months after initial licensure.

2. The provider shall receive and document having received 15 hours of continuing education each year in child growth and development, early childhood education, first aid, or cardiopulmonary resuscitation as ap-