

(d) Is the subject of a court finding that the person has abandoned his or her child, has inflicted sexual or physical abuse on a child or has neglected or refused, for reasons other than poverty, to provide necessary care, food, clothing, medical or dental care or shelter for his or her child or ward or a child in his or her care, so as to seriously endanger the physical health of the child;

(e) Has had a day care license revoked within the last 3 years; or

(f) Has violated any provision of this chapter or ch. 48, Stats., or fails to meet the minimum requirements of this chapter.

Note: Examples of actions the department will consider in making a determination under this paragraph that an act substantially relates to the care of children are: abuse and neglect of children; sexual assault; abuse of residents of facilities; crimes against life and bodily security; kidnapping; abduction; arson of buildings or property other than buildings; robbery; receiving property from children; crimes against sexual morality, such as enticing a minor for immoral purposes or exposing minors to harmful materials; and interfering with the custody of a child. The list is illustrative. Other types of offenses may be considered.

(5) NOTICE TO DENY OR REVOKE A LICENSE. If the department decides under sub. (4) to refuse to grant a license or to revoke a license, the department shall provide the applicant or licensee with a written notice of its decision. That notice shall be a 30-day notice in the case of a revocation, with the revocation to take effect 30 days after the date of the notice unless the decision is appealed under sub. (6). Upon receipt of that notice and during any revocation procedures which may result, the center may not accept for care any child not enrolled as of the date of receipt of the notice without the written approval of the department.

(6) APPEAL OF DECISION TO DENY OR REVOKE A LICENSE. Any person aggrieved by the department's decision to deny issuance or renewal of a license or to revoke a license may request a hearing on that decision under s. 227.42, Stats., within 10 days after the date of the notice under sub. (5).

Note: A request for a hearing should be submitted to the Department's Office of Administrative Hearings, P.O. Box 7875, Madison, Wisconsin 53707.

(7) SUMMARY SUSPENSION OF A LICENSE. (a) Under the authority of s. 227.51 (3), Stats., the department may summarily suspend a license and therefore close a family day care center when the department finds that there is imminent danger to the health, safety or welfare of the children in care. A finding of imminent danger may be based on but is not limited to the following:

1. Failure of the licensee to provide environmental protections for the children, such as heat, water, electricity or telephone service;

2. The licensee, provider, other person living in the home or other person in regular contact with the children in care has been convicted of or has a pending charge for a crime against life or bodily injury;

3. The licensee, provider, other person living in the home or other person in regular contact with the children in care has been convicted of a felony, misdemeanor or other offense or has a pending criminal charge which substantially relates to the care of children or activities of the center; or

4. The licensee, provider, other person living in the home or other person in regular contact with the children in care is the subject of a current

investigation for alleged child abuse or neglect pursuant to s. 48.981, Stats., or has been determined to have abused or neglected a child.

Note: Examples of actions the department will consider in making a determination under this paragraph that an act substantially relates to the care of children are: abuse and neglect of children; sexual assault; abuse of residents of facilities; crimes against life and bodily security; kidnapping; abduction; arson of buildings or property other than buildings; robbery; receiving property from children; crimes against sexual morality, such as enticing a minor for immoral purposes or exposing minors to harmful materials; and interfering with the custody of a child. The list is illustrative. Other types of offenses may be considered.

(b) An order summarily suspending a license and therefore closing a family day care center may be a verbal order by a representative of the department. Within 72 hours after the order takes effect, the department shall either permit the reopening of the center or initiate proceedings to revoke the license. A preliminary hearing shall be conducted by the regional administrator or designee within 10 working days after the date of the initial order to close, on the issue of whether the license shall remain suspended during revocation proceedings.

History: Cr. Register, August, 1989, No. 404, eff. 9-1-89; emerg. am. (6), eff. 11-8-93; am. (6), Register, March, 1994, No. 459, eff. 4-1-94.

**HSS 45.09 Complaints.** Anyone having a complaint about a licensed or illegally operating family day care center may submit that complaint to the department by telephone, letter or personal interview. Every complaint shall be investigated by a licensing representative of the department. The department shall send a written report of the findings of the investigation to the complainant upon request.

Note: Complaints should be sent to the regional office of the Department's Division of Community Services. See Appendix A.

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