

## Chapter HFS 56

### FOSTER HOME CARE FOR CHILDREN

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**Note:** Sections PW-CY 40.60 to 40.65 as they existed on March 31, 1983 were repealed and a new chapter HSS 56 was created effective April 1, 1983. Chapter HSS 56 as it existed on February 28, 2002, was repealed and a new chapter HFS 56 was created, Register February 2002 No. 554, effective March 1, 2002.

**HFS 56.01 Authority and purpose. (1)** This chapter is promulgated under the authority of ss. 48.62 (4), 48.64 (4), 48.67 and 48.675 (2), Stats., to establish licensing requirements for foster homes directed at protecting the health and safety and promoting the welfare of children placed in the homes; to establish a fair hearing procedure for foster parents; and to establish criteria for making supplemental and exceptional payments to foster parents.

**(2)** A license to operate a foster home does not entitle the holder to placements of children who need foster care since placement decisions are based on a variety of factors, including the compatibility of what a specific child needs with what a particular foster parent can offer.

**Note:** Public licensing agencies are required to provide a foster home license to any applicant who meets the requirements under this chapter. An agency is not, however, required to place children with a licensee simply by virtue of the fact that they have a foster home to license.

**History:** CR 00-020: cr. Register February 2002 No. 554, eff. 3-1-02.

**HFS 56.02 Applicability. (1)** TO WHOM THE RULES APPLY. This chapter applies to all persons proposing to provide or who are providing foster care for children in a foster home or treatment foster home, and to the department, county agencies under s. 46.215, 46.22 or 46.23, Stats., and licensed child-placing agencies.

**(2) EXCEPTION TO A REQUIREMENT. (a) Licensing agency authority. 1.** A licensing agency may grant an exception to any requirement in this chapter if the licensing agency determines that the exception will not jeopardize the health, safety or welfare of the foster children, except that the licensing agency may not grant an exception to any of the following requirements: s. HFS 56.04 (1), (2), (4) (a) 1., 2., 5., 8., or 9. or (b) 2., (6), (7) or (8); s. HFS 56.05 (1) (a), (b) 2., (c) 2., 3., 4., 5., 6., 7. or 9., (d), (f) or (3) (a); s. HFS 56.07 (3) (a), (4) (b), (c), (e), (f), (g) or (h), (5) (a), (6) or (10) (a); s. HFS 56.08 (1), (2), (3), (4), (5), (6) (c) 1., 2., 3. or 4. a., (7) (a) 3., (8) (a) 1. or 2., or (c) or (10); s. HFS 56.09 (1), (2) (c), (3), (4) (c) or (d), (5), (9), (11) or (12) (a), (c) or (d); or s. HFS 56.11.

2. An applicant or licensee wanting an exception to a nonstatutory requirement in this chapter that the licensing agency has authority to grant shall submit a written request to the licensing agency stating the specific provision of this chapter for which an exception is requested, the justification for the requested exception and an explanation of any alternative provision planned to meet the intent of the requirement.

3. Any exception granted under subd. 2. or par. (b) shall be specifically cited on the license and shall be in effect only as long as the conditions under which the exception was granted remain but no longer than 2 years from the date on which the exception is granted or the date the license terminates, whichever occurs first, by which time the licensing agency shall determine if there is continued justification for the exception. In addition, the licensing agency may impose conditions to be met within a specified

period of time by the licensee as an alternative to compliance with the requirement for which an exception has been granted.

**(b) Department exceptions panel. 1.** An applicant or licensee wanting an exception to a nonstatutory requirement in this chapter that the licensing agency may not grant may ask the department exceptions panel to grant the exception, with the approval of the licensing agency. A request for an exception under this paragraph shall be in writing on a form prescribed by the department.

**Note:** Copies of the Department's request form, CFS-847, "Application to DHFS Exceptions Panel for Exception to Ch. HFS 56 or Ch. HFS 38," can be obtained from the licensing agency.

2. Any request under subd. 1. shall include all of the following information:

- The name of the applicant or licensee.
- The address of the applicant or licensee.
- The citation for the specific requirement for which an exception is requested.
- The rationale for the request.
- An explanation of any alternative provision planned to meet the intent of the requirement.
- The signature of the applicant or licensee and the date on which the applicant or licensee signed the request.

3. The applicant or licensee shall submit the completed request form to the licensing agency.

4. The licensing agency's authorized representative shall, in the space provided on the request form, indicate whether he or she supports or does not support the exception request or supports some alternative to the request, shall justify that position and shall sign and date the request form.

5. If the licensing agency approves the request or some alternative to the request, the licensing agency shall submit the completed request form to the department within 10 working days after the agency's receipt of the request form from the applicant or licensee. The licensing agency does not need to submit to the department any request that it does not support.

6. The department exceptions panel shall, in writing, indicate its approval or disapproval of the request within 10 working days after the department receives the request form from the licensing agency.

7. a. The department exceptions panel shall consist of at least 3 persons who collectively are knowledgeable about the foster care program, licensing practices and any special needs of children who may be served by the applicant for an exception.

b. The chairperson of the panel shall be designated by the director of the department's bureau of programs and policies.

c. The panel chairperson shall designate the remaining members of the panel.

**History:** CR 00-020: cr. Register February 2002 No. 554, eff. 3-1-02; CR 03-033: am. (2) (a) 1. Register December 2003 No. 576, eff. 1-1-04.

**HFS 56.03 Definitions.** In this chapter:

(1) "Applicant" means a person who applies for a license to operate a foster home, for renewal of a license to operate a foster home or for modification of a license to operate a foster home.

(2) "Basement" has the meaning prescribed in s. Comm 20.07 (8), namely, that level below the first or ground floor level with its entire floor below exit discharge grade.

(3) "Basic maintenance payment" means an age-related foster care payment established by s. 48.62 (4), Stats., to reimburse a foster parent for the cost of a foster child's food, clothing, housing, basic transportation and personal items.

(4) "Case plan" means the service plan for the child and family, of which the permanency plan is a part.

(5) "Child" means a person under 18 years of age or a person age 18 or older who remains under the jurisdiction of the juvenile court.

(6) "Complete bathroom" means a bathroom with at least one toilet, one sink, and one tub or shower.

(7) "County agency" means a county department of social services under s. 46.215 or 46.22, Stats., or a county department of human services under s. 46.23, Stats.

(8) "Dangerous weapon" means any firearm, any device designed as a weapon and capable of producing death or great bodily harm, any electric device designed to immobilize or incapacitate persons by the use of electric current, any spray device designed to immobilize or incapacitate persons by the use of chemicals or other liquids or gases or any other device or instrument that is calculated or likely to produce death or great bodily harm.

(9) "Department" means the Wisconsin department of health and family services.

(10) "Department exceptions panel" or "exceptions panel" means the group authorized to grant exceptions under s. HFS 56.02 (2) to nonstatutory requirements of this chapter.

(11) "Exit" has the meaning prescribed in s. Comm 20.07 (29).

(12) "Foster care" means care and maintenance provided to a child in a foster home pursuant to a court order or voluntary placement agreement.

(13) "Foster child" means a child placed for care and maintenance in a foster home by the department, a county agency, a licensed private child-placing agency or a court by court order or a voluntary placement agreement.

(14) "Foster home" means any facility operated by a person required to be licensed under s. 48.62 (1) (a), Stats., in which care and maintenance are provided for no more than 4 foster children or, if necessary to keep siblings together, for no more than 6 foster children.

(15) "Foster parent" means a person with primary responsibility for the care and supervision of one or more foster children placed in his or her home and in whose name the foster home is licensed under this chapter.

(16) "Guardian" means the person or agency appointed by a court to make major decisions affecting a child which may include consent to marriage, to enlistment in the armed forces and to major surgery.

(17) "Hazardous machinery and equipment" means any machine or other equipment generally known to be dangerous to untrained or unskilled operators or to operators who for any other reason are physically or mentally unable to operate the equipment safely, including a motor vehicle, power lawn mower, tractor or other farm machinery or equipment, snow blower, chain saw, power-driven shop tool, snowmobile, all-terrain vehicle and any other machinery or equipment determined by the licensing or supervising agency to be unsafe for a particular foster child to operate.

(18) "HealthCheck program" means a standardized preventive health check-up program for anyone under the age of 21 who has a valid Wisconsin medical assistance card.

**Note:** A HealthCheck includes head-to-toe physical examination, immunizations, laboratory tests, eye exam, growth and development check, hearing check, mouth exam, nutrition check, health information, special teen-age health education and teen pregnancy services.

(19) "Home-based private educational program" means a program of educational instruction provided to a child by the child's parent or guardian or by a person designated by the parent or guardian. An instruction program provided to more than one family unit does not constitute a home-based private educational program.

(20) "Household member" means any person living in a foster home, whether or not related to the licensee.

(21) "Legal custodian" means the person or agency to whom a court has transferred a child's legal custody and who thereby has the right and duty to protect, train and discipline the child and to provide for the child's care and needs. "Legal custody" has the meaning prescribed in s. 48.02 (12), Stats.

(22) "Licensed private child-placing agency" means an agency licensed by the department under s. 48.60, Stats., and ch. HFS 54 to place children in foster homes and other out-of-home care facilities and to license foster homes or treatment foster homes.

(23) "Licensee" means the foster parent or foster parents in whose name or names a foster home is licensed under this chapter.

(24) "Licensing agency" means the department, a county agency or a licensed private child-placing agency that might issue a license under this chapter or ch. HFS 38.

(25) "Living area" means the rooms of the foster home used by household members for sleeping, preparing and eating meals, bathing, toileting and indoor leisure time activities.

(26) "Mechanical restraint" means any physical apparatus that interferes with the free movement of a person's limbs and body.

(27) "Motor vehicle" means a private automobile, motorcycle, van, bus or truck.

(28) "Nurse practitioner" means a registered nurse licensed under ch. 441, Stats., who is currently certified as a nurse practitioner by a national certifying body that is recognized by the Wisconsin board of nursing.

(29) "Out-of-home care" means care in a foster home, a treatment foster home, a group home under s. 48.625, Stats., or a child caring institution under s. 48.60, Stats.

(30) "Permanency plan" means a plan required under s. 48.38 (2), Stats., that is designed to ensure that a child placed in out-of-home care is safely reunified with his or her family whenever appropriate, or that the child quickly attains a safe placement or home providing long-term stability.

(31) "Physical punishment" means inflicting any kind of physical pain or discomfort on a child by means that include but are not limited to hitting, slapping, spanking, punching, shaking, kicking, biting or washing out a child's mouth with soap.

(32) "Physician" means a person licensed to practice medicine or osteopathy under ch. 448, Stats.

(33) "Physician assistant" means a person certified under ch. 448, Stats., to perform patient services under the supervision and direction of a physician.

(34) "Premises" means the foster home and the tract of land on which it is situated, including all other buildings and structures on that land.

(35) "Responsible care provider" means a person the foster parent believes has the ability and maturity to care for a foster child for the time that the foster child will be in that person's care.

(36) "Supervising agency" means the agency responsible for overseeing the care and maintenance of a child placed in out-of-home care.

(37) "Treatment foster home" means a family-oriented facility operated by a person or persons required to be licensed under s. 48.62 (1) (b), Stats., and ch. HFS 38 in which treatment, care and maintenance are provided for no more than 4 foster children.

“Treatment foster home” does not include a shift-staffed facility, except as permitted under s. HFS 38.02 (2) (d).

**(38)** “Voluntary placement agreement” means a written contract between a county agency and the child’s parent or guardian and the child, if the child is 12 years of age or older, for the placement of the child in a licensed foster home, for a specified length of time not exceeding 6 months.

**History:** CR 00-020: cr. Register February 2002 No. 554, eff. 3-1-02.

**HFS 56.04 Applying for a license. (1) WHO MUST APPLY.** (a) Any person proposing to provide foster care for children shall apply to a licensing agency for a foster home license.

(b) Application for a foster home license shall be made on a form provided by the licensing agency.

**(2) LICENSE PROHIBITION.** No licensing agency may issue a foster home license to one of its own employees within the same program area. A foster parent serving an agency only in the foster parent role and volunteers utilized by an agency are not considered employees for purposes of this prohibition.

**Note:** The intent of this requirement is to prevent possible conflicts of interest with respect to the terms of the rate paid to the foster parent, the situation that may result if an allegation of abuse or neglect is made against the foster parent, etc. The agency should consider such situations in granting a license to an employee of the agency.

**(3) REAPPLICATION FOLLOWING DENIAL OR REVOCATION.** No applicant or former licensee who, for a substantive reason, such as inappropriate discipline practices, inadequate mental health functioning or current abuse of alcohol or drugs, was denied a license or whose license was revoked may reapply for a license to any licensing agency within a period of 2 years following the effective date of license denial or revocation, unless both of the following conditions are met:

(a) The initial denial or revocation was based on the applicant’s or former licensee’s criminal conviction or governmental finding that required rehabilitation approval under ch. HFS 12 and the applicant or former licensee failed to prove rehabilitation under ch. HFS 12.

(b) The applicant or former licensee has reapplied for rehabilitation review under ch. HFS 12 and the rehabilitation review panel has determined that the applicant has been rehabilitated.

**(4) DOCUMENTS REQUIRED PRIOR TO LICENSING.** (a) *Initial license.* Before an applicant for an initial license may be issued a license, the applicant shall submit the following to the licensing agency:

1. An application form completed and signed by the applicant. Married persons living together shall both sign the application. Any household member who will act in the role of foster parent shall sign the application.

2. Verification of homeowner’s or renter’s and vehicle liability insurance coverage required under s. HFS 56.05 (3) and (4) or a request for a waiver from homeowner’s or renter’s and vehicle liability in accordance with s. HFS 56.05 (5). Verification means that the licensing agency representative has personally seen the appropriate documentation. A licensing agency need not retain a copy of the documentation in its files.

3. Health examination documentation that all household members are in good health as required under s. HFS 56.05 (1) (e).

4. Favorable references from at least 3 nonrelatives. A person providing a reference shall include a statement indicating how long he or she has known the applicant and under what circumstances he or she came to know the applicant.

5. Documentation of fire safety inspection of the foster home, if required by the licensing agency.

6. A private water supply test report for the foster home, if required by the licensing agency.

7. The employment history of the applicant. The history shall indicate the length of time the applicant was employed by each employer. The employment history shall document all employment for the 5-year period prior to submission of the application

for a foster home license, unless the licensing agency has reasonable cause to request employment history for more than 5 years.

8. Notification of any previous licensure as a foster parent or any other type of caregiver for children, the name of the licensing agency and the period during which the license was held.

9. A signed statement indicating that the applicant has received the following information provided by the agency:

a. A brochure that explains the foster care reimbursement and rate structure, including the clothing allowance.

b. A brochure that explains the foster parent insurance program and information regarding how to file a claim with that program.

c. Notice that the licensing agency may contact the Wisconsin department of justice and any similar agency in another state, any federal or local law enforcement agency, any social services agency or any other public or private agency to determine if there is any reason specified under s. 48.685, Stats., ch. HFS 12, s. HFS 56.05 (1) (a) 3. or any other part of this chapter for the applicant to not be granted a license.

10. Other documentation or authorizations required by the licensing agency for its review of the application.

(b) *License renewal.* An applicant for renewal of a license shall submit all of the following to the licensing agency at least 30 days before expiration of the current license:

1. An application form completed and signed by the applicant. Married persons living together shall both sign the application. Any household member who will act in the role of foster parent shall sign the application.

2. Verification of continued homeowner’s or renter’s and vehicle liability insurance coverage required under s. HFS 56.05 (3) and (4) or a request for a waiver of homeowner’s or renter’s and vehicle liability in accordance with s. HFS 56.05 (5). Verification means that the licensing agency representative has personally seen the appropriate documentation. A licensing agency need not retain a copy of the documentation in its files.

3. Documentation of fire safety inspection of the foster home, if required by the licensing agency.

4. A private water supply test report for the foster home, if required by the licensing agency.

5. Health reexamination documentation for any household member, if required by the licensing agency.

6. Other documentation or authorizations required by the licensing agency for its review of the application.

(c) *License modifications.* 1. A licensing agency may modify a foster home license, and an applicant for a license at the time of the initial licensure or a licensee at any time during the effective period of the license may request modification of the license.

2. An applicant for license modification shall obtain a license modification application form from the licensing agency and shall submit a completed and signed application form and other materials required by the licensing agency to that agency within the following time limits:

a. Before the date the licensee plans to change location from the location specified on the current license.

b. Before the date an applicant wishes to have one or more license conditions changed.

c. No later than 30 days before the date the marital status of the licensee changes.

d. Within 10 days after a household member leaves.

e. At least 30 days before someone enters the household when this is known that far in advance or otherwise as soon as possible before that person enters the household.

**(5) ACTION BY THE LICENSING AGENCY.** (a) Except as provided in par. (b) or (c), within 60 days after receiving a completed application for a foster home license, for renewal of the foster home license or for a license modification, the licensing agency shall approve the application and issue the license, deny the application

or approve the modification. Any delay that is the result of an act or omission on the part of the applicant shall not be considered in the 60-day time limit. If the application for a license, relicensure or license modification is denied, the licensing agency shall give the applicant reasons in writing for the denial and shall provide information on how an appeal may be requested under s. HFS 56.10.

(b) A licensing agency shall be allowed one 30-day extension of the time limit under par. (a) if the extension is needed to allow the agency to collect information necessary to make an informed decision, such as to obtain a criminal records check or responses from references. The agency shall notify the applicant or licensee if an extension is necessary.

(c) If the foster home license application is for a pre-adoptive placement, the licensing agency shall either approve the application and issue the license or deny the application within 6 calendar months after receipt of the completed application. If the application for a license is denied, the licensing agency shall give the applicant reasons, in writing, for the denial and shall provide information on how an appeal may be requested under s. HFS 56.10.

(6) **DISCRIMINATION.** A licensing agency may not discriminate against an applicant for a foster home license or a foster parent applying for renewal of a foster home license on the basis of age, sex, race, color, creed, sexual orientation, national origin or handicap.

(7) **EFFECTIVE PERIOD OF A LICENSE.** A foster home license shall be effective for a period not to exceed 2 years and may be renewed upon successful completion of relicensing requirements.

(8) **NOTIFICATION OF APPLICATION FOR OR ISSUANCE OF ADDITIONAL LICENSES.** A licensee who applies to any licensing authority for or is issued any other license in addition to the foster home license shall notify the agency that issued the foster home license. No licensee may hold any other license to provide foster care under this chapter, group foster care under ch. HFS 57 or treatment foster care for children under ch. HFS 38.

**History:** CR 00-020; cr. Register February 2002 No. 554, eff. 3-1-02.

**HFS 56.05 Licensee qualifications.** (1) **PERSONAL REQUIREMENTS AND BACKGROUND.** (a) *General.* 1. A person licensed to operate a foster home shall be a responsible, mature individual who is fit and qualified, who does not abuse alcohol or drugs or have a history of a civil or criminal conviction or administrative rule violation that substantially relates to caring for children or operating a foster home, as described in ch. HFS 12, and who exercises sound judgment and displays the capacity to successfully nurture foster children.

2. The applicant or licensee shall give truthful and sufficient information to enable the licensing agency to verify whether or not he or she meets the requirements under subd. 1. Giving false information or withholding relevant information shall constitute grounds for denial or revocation of the license.

3. In determining whether a person is fit and qualified, the licensing agency shall consider the person's qualifications under this section and any history of civil or criminal violation of statutes, regulations or ordinances of the United States, this state, any other state, any local government or other U.S. jurisdiction substantially related to the care of children.

(b) *Characteristics.* As evidenced through interviews with foster family members, the use of formalized assessment systems, communication with references and other mechanisms considered to be effective components of a comprehensive foster home study, a licensee shall have or exhibit all of the following characteristics to a degree that will allow the licensee to adequately provide foster care services:

1. An adequate understanding of what it means to be a foster child and a recognition of a child's strengths and weaknesses consistent with the child's age and abilities, or a motivation to learn.

2. A history of managing or an indication of the ability to manage stress related to economic resources, employment, home, neighborhood, family size or health problems, and an indication of an ability to cope with an additional stress factor of a foster placement.

3. A satisfactory self-concept.

4. An ability to communicate ideas, feelings and needs.

5. An outlook regarding his or her own history that indicates that any negative aspects have been recognized and adequately addressed.

6. Parenting ability appropriate to the age, abilities, strengths and weaknesses of foster children to be placed in the licensee's home or a motivation to learn.

7. A history of positive parenting, if applicable.

8. An adequate knowledge of child growth and development or a motivation to learn.

9. Reasonably constructive social relationships and the ability to provide encouragement and understanding of a foster child's need for positive social relationships.

10. Effective intrafamilial communication and the existence of appropriate family roles, marital or other relationship stability, integration into the community and organization in the home.

11. An appropriate understanding of child abuse and neglect as a social problem or a motivation to learn.

12. An appropriate understanding of the needs of children who have been abused or neglected and of parents who abuse or neglect their children or a motivation to learn.

13. Adequate preparation of all family members to become a foster family, particularly preparation for the stress that having a foster child in the family may place on each family member.

14. An appropriate motivation for applying to be a foster family and an ability to follow through on difficult endeavors.

15. A willingness to work with the supervising agency and the biological or adoptive parents in achieving a foster child's permanence goal as established in the child's permanency plan.

**Note:** The Department has recommended the use of the Foster Family Assessment System but any formalized assessment system can be used.

(c) *Responsibilities.* The licensee shall be familiar with the requirements of this chapter and do all of the following:

1. Comply with all of the requirements of this chapter.

2. Accept foster children for care only in conformity with the conditions specified on the license and with the approval of the licensing and supervising agencies.

3. Cooperate fully with the licensing agency and any other agency responsible for supervising foster children in the licensee's care and keep the licensing agency and any other responsible agency informed of each child's progress and problems.

4. Immediately notify the licensing agency of any change in the job or work schedule of a foster parent who works outside the home and notify the licensing agency of any impact this change will have on the licensee's ability to provide foster care.

**Note:** See similar language related to in-home employment at s. HFS 56.09 (2) (a).

5. Immediately notify the supervising agency and, if not the same, the licensing agency, of the death of a foster child or any life-threatening or serious illness or injury requiring medical treatment for a foster child, the unauthorized absence of a foster child from the home for longer than 8 hours or for a period of time that cannot reasonably be justified by the child's age, maturity or mental and emotional capacity, or any similar crisis related to a foster child.

6. Immediately notify the supervising agency if the licensee has reasonable cause to believe that a foster child has been abused or neglected, or has been threatened with abuse or neglect and it is likely that the foster child will be abused or neglected.

7. Cooperate with efforts of the supervising agency to maintain relationships between foster children and their families and with the agency's efforts to implement plans for care and treat-

ment and for arranging a permanent living arrangement as required under s. 48.38, Stats.

8. Allow the supervising agency up to 30 days in which to make alternate placement plans when the licensee asks that a foster child be removed from the home.

9. Maintain in confidence all personal information about foster children and their families.

(d) *Age.* No person younger than 21 years of age may be licensed to operate a foster home, except that a person 18 to 20 years of age may be licensed to provide foster care for a relative.

(e) *Health.* 1. A person licensed to operate a foster home shall be in good health.

2. The applicant for an initial license to operate a foster home shall provide documentation of the applicant's good health by presenting to the licensing agency a written statement from a physician, physician assistant or nurse practitioner that, based upon a medical examination performed within the previous 6 months, the applicant does not have any illness or disability that is likely to threaten the health of foster children or interfere with the applicant's capacity to provide care.

3. If, at any time, the licensing agency suspects or has reason to believe that the physical or mental health of an applicant, licensee or other household member may pose a threat to the health, safety or welfare of children in care, the licensing agency may require an alcohol or other drug abuse assessment or a physical health or mental health evaluation of the person as a condition for issuing or continuing the license.

(f) *Background.* 1. Before a foster home license is issued or renewed, the applicant for a license or foster parent applying for renewal of a license and any non-client resident of that person's home who is age 12 or older shall complete the department's background information disclosure form, HFS-64, and shall provide written authorization for the licensing agency to make follow-up contact with the Wisconsin department of justice and any other agency to determine if there is any reason under par. (b) why the applicant should not be granted a license or have an existing license renewed.

**Note:** To obtain a master copy of the HFS 64 Background Information Disclosure Form, in order to reproduce it, either download the form from the Department's internet web site at [www.dhfs.state.wi.us/caregiver/forms/bkgdformsindex.htm](http://www.dhfs.state.wi.us/caregiver/forms/bkgdformsindex.htm), or request copies of the form from the Division of Children and Family Services' Forms Center at DCFS Forms Manager, P.O. Box 8916, Madison, WI 53708-8916.

2. Pursuant to ch. HFS 12, an applicant or licensee is unqualified to hold a license if the applicant or any other nonclient resident living in the household meets any of the following conditions:

a. Is the subject of a pending state or federal criminal charge if the circumstances of the charge substantially relate to caring for children or operating a foster home.

b. Has been convicted of a felony, misdemeanor or other state or federal offense, the circumstances of which substantially relate to caring for children or operating a foster home or who is otherwise prohibited from licensure by statute or ch. HFS 12, including any governmental finding that the person misappropriated a client's property.

3. An applicant or licensee shall immediately notify the licensing agency of any arrests or convictions, any allegations or determinations specified under subd. 2. b. or investigations of maltreatment of a child under s. 48.981, Stats., relating to the applicant or licensee or any member of the applicant's or licensee's household. This information shall be used by the licensing agency in making a determination to issue or deny a license, to renew or not renew a license or to revoke a license.

4. The licensing agency shall conduct criminal and other background checks in accordance with ch. HFS 12 before issuing a foster care license.

(2) **FINANCES.** A foster parent shall have a stable income sufficient to meet the foster family's obligations without reliance on

the basic maintenance payments received for the care of foster children placed in the foster home. An applicant for a license shall provide the licensing agency with verification of compliance with this subsection.

(3) **VEHICLE LIABILITY INSURANCE.** (a) An applicant for either initial licensing or for relicensing who plans to transport foster children in his or her vehicle shall provide the licensing agency with documentation of current vehicle liability insurance coverage and shall ensure that the insurance coverage continues in force throughout the term of licensure.

(b) If it is anticipated that a foster child will drive the applicant's motor vehicle, the applicant shall ensure that the foster child is covered by the applicant's insurance policy.

(4) **HOMEOWNER'S OR RENTER'S LIABILITY INSURANCE.** (a) Except as provided under sub. (5), before a foster home license is issued or renewed, the applicant for an initial license or the foster parent applying for renewal of a license shall furnish proof to the licensing agency of having homeowner's or renter's liability insurance as required under s. 48.627 (2) (a), Stats.

(b) A licensing agency shall have on file verification that each foster parent licensed by that agency has insurance coverage required under par. (a) and s. 48.627 (2) (a), Stats., or shall have on file documentation that the foster parent has been granted a waiver from that requirement in accordance with sub. (5), or has been issued a license for a period not to exceed 90 days to allow the foster parent to obtain necessary documentation to request a waiver in accordance with sub. (5).

(5) **WAIVER OF HOMEOWNER'S OR RENTER'S LIABILITY INSURANCE REQUIREMENT.** (a) In this subsection, "Wisconsin insurance plan" means the mandatory risk-sharing insurance plan established under s. 619.01, Stats., and s. Ins 4.10.

(b) A foster parent or an applicant for a foster home license may request a waiver of the requirement under sub. (4) (a) if he or she is unable to obtain the required insurance, the insurance policy that he or she had was canceled or payment of the premium for the required insurance would cause undue financial hardship.

(c) A request for a waiver shall be sent directly to the licensing agency and shall include one of the following:

1. A written denial of homeowner's liability insurance by an insurance company for a reason other than the poor condition of the property and a written denial of the same insurance coverage from the Wisconsin insurance plan.

2. A written cancellation of homeowner's liability insurance by an insurance company for reasons other than nonpayment of premiums and a written denial of the same coverage from the Wisconsin insurance plan.

3. A written denial of renter's liability insurance from 2 insurance companies.

4. A written cancellation of renter's liability insurance by an insurance company for reasons other than non-payment of premiums and, in addition, a written denial of the same insurance coverage from one other insurance company.

5. Documentation that payment of the insurance premium would cause undue financial hardship for the foster parent or applicant as evidenced by any of the following:

a. The foster family or applicant is a participant in the Wisconsin Works program under ss. 49.141 to 49.161, Stats.

b. The foster parent or applicant is receiving supplemental security income under 42 USC 1381 to 1383d.

c. The foster family's or applicant's income is at or below the minimum family budget determined by the department for purposes of administering the uniform fee system under ch. HFS 1.

**Note:** A foster parent has limited liability under s. 895.485, Stats. This does not mean that he or she has no liability. In the event that a foster parent is sued, the foster parent may be liable for any judgment and attorney's fees. As such, a waiver of the insurance requirement should be made only in rare circumstances.

(d) Within 30 days after receipt of a request that is accompanied by the documentation required under par. (c), the licensing

agency shall either waive the requirement or deny the request for a waiver, and shall notify the applicant or foster parent in writing of its decision and the reasons for the decision.

**Note:** The Wisconsin Insurance Plan is property insurance of the last resort. A foster parent and an applicant for a foster home license should consider the Wisconsin Insurance Plan only if they cannot obtain conventional insurance from an insurance company. For information on the Wisconsin Insurance Plan, contact any insurance agency or the Wisconsin Insurance Plan, 700 W. Michigan Street, Milwaukee, WI 53233; phone 414-291-5353.

**History:** CR 00-020: cr. Register February 2002 No. 554, eff. 3-1-02.

**HFS 56.06 Respite care provider qualifications.**

When a child's foster parent leaves the child for more than 48 hours, or when the licensing or placing agency arranges or pays for any amount of respite care for a foster child, the respite care provider shall meet all of the following conditions:

(1) Be at least 18 years of age and at least 5 years older than any foster child being cared for by the respite provider or, if respite will be provided to a relative of the respite care provider, at least 3 years older than any foster child being cared for by the respite provider.

(2) Have direct care experience or training in working with children with conditions similar to those of the foster child for whom he or she will be caring.

(3) Be physically able to provide the care needed and in the setting required.

(4) Be willing to be flexible and work varied, atypical hours.

(5) Be able to reliably get to and from respite care assignments.

(6) Possess the ability to accept responsibility, work independently, exercise good judgment, maintain confidentiality and manage the varied medical, behavioral and other care needs of foster children for whom he or she will be caring.

(7) Reside in a home that meets the physical, safety and environmental needs of the foster child for whom care is to be provided, if the respite care is to be provided in the respite care provider's residence.

(8) Authorize the licensing or supervising agency to conduct a criminal records check as described in s. HFS 56.05 (1) (f).

(9) Agree to provide quality, reliable and temporary care for the child in foster care that is consistent with the child's treatment or service plan.

(10) Obtain from the foster parent appropriate information about the specific care procedures and interaction strategies relevant for the child's care.

(11) Agree to perform household and emergency tasks directly related to the general health and well being of the foster child.

(12) If transporting a foster child, possess a valid driver's license, and automobile insurance.

(13) Agree to abide by the discipline rules under s. HFS 56.09 (5).

**History:** CR 00-020: cr. Register February 2002 No. 554, eff. 3-1-02.

**HFS 56.07 Physical environment. (1) GENERAL**

**REQUIREMENTS.** (a) A foster home shall be so constructed, arranged and maintained that it is safe for all occupants, and the health of all occupants is safeguarded. The home shall be large enough and its living areas large enough for the number and ages of the foster children and other household members. The home shall have furnishings and equipment necessary to adequately accommodate the foster children and other persons living in the home. The property on which the foster home is situated, including all other buildings and structures on that property, shall be maintained in a state of good repair and in a sanitary condition so that it is safe for the occupants and their health is safeguarded.

(b) The licensing agency shall request fire, health, sanitation or safety officials to inspect the foster home or the entire premises

when more expert opinion is necessary to help the agency evaluate the safety of the home.

(2) **INTERIOR LIVING AREA.** An applicant applying on or after September 1, 1990, for an initial license to operate a foster home shall provide a minimum of 200 square feet of living area for each household member, including each foster child.

(3) **BATH AND TOILET FACILITIES.** (a) An applicant for an initial license to operate a foster home or any licensee who changes the location of the foster home on or after September 1, 1990, shall provide at least one complete bathroom for every 8 household members including foster children. Bath and toilet facilities that are accessible only through a sleeping room may be counted only for the occupants of that room.

(b) The door of each bathroom shall have a lock that may be opened from the outside in an emergency.

(c) Bathrooms shall be located within the foster home.

(4) **SLEEPING ARRANGEMENTS.** (a) 1. Each foster child shall be provided with a separate bed except that 2 brothers or 2 sisters under 12 years of age may share a double bed.

2. Each crib shall have crib slats that are securely fastened in place and are spaced no more than 2 3/8 inches apart. The mattress shall fit snugly so that there are no more than 1 1/2 inches between the edge of the mattress and crib side.

3. Each bed shall be large enough to be comfortable for the child, provide adequate body support and be equipped with a clean and comfortable mattress and with a waterproof covering when necessary. The foster child shall be provided blankets that are adequate for the season.

4. There shall be a minimum of 2 feet horizontally between beds except that between bunk beds there shall be a minimum of 5 feet.

5. For the top bed of a bunk bed, there shall be a minimum of 3 feet between the top of the mattress and the ceiling or any light or other fixture protruding from the ceiling above the bed.

6. A foster child under 4 years of age or who has a disability that limits mobility may not sleep on the top bed of a bunk bed.

7. A top bunk shall have a safety rail if occupied by a child under 8 years of age.

8. Triple-decked beds may not be used.

(b) No foster child one year of age or older may regularly share a bedroom with an adult unless a physician determines that it is medically necessary and the licensing agency approves.

(c) No foster child 6 years of age or older may regularly share a bedroom with another child of the opposite sex.

(d) Each bedroom occupied by a foster child shall have a minimum floor space of 40 square feet per child.

(e) No foster child may regularly sleep in any building, apartment or other structure on the premises which is separate from the foster home, nor may any foster child regularly sleep in an unfinished attic, an unfinished basement, a hallway or in any room normally used for purposes other than sleeping. No household member may regularly sleep in any of these places in order to accommodate the presence of the foster child.

(f) No foster child under the age of 7 years or a child with limited mobility or functioning may regularly sleep in a finished basement bedroom or in a bedroom above the second floor of a single family dwelling.

(g) No foster child 7 years of age or older may regularly sleep in a finished basement bedroom or in a bedroom above the second floor of a single family dwelling unless there are 2 exits to grade from that floor level and provision has been made for adequate heating, cooling, ventilation and humidity control. The exits from basements used for sleeping purposes shall comply with s. Comm 21.03 (5) (b) and (6).

(h) A responsible care provider shall sleep within call of foster children during the night. An exception may be granted only if the

child is at least 16 years of age and the supervising agency gives its approval.

(i) Each bedroom occupied by a foster child shall have a door for privacy and a window that allows natural light to enter, and shall be adequately ventilated.

(j) A sleeping room that someone must pass through to get to another part of the building may not be used for a foster child.

(k) A foster child may not regularly sleep in a room to which access can be gained only through another occupied sleeping room.

(L) No more than 4 children may regularly occupy one bedroom.

**(5) TELEPHONE.** (a) A foster home shall have at least one telephone in operating condition that does not require a coin for operation.

(b) Emergency telephone numbers, including fire department, police, hospital, physician, poison control center and ambulance, shall be posted by each telephone in a foster home.

(c) A licensee shall notify the licensing and supervising agencies no later than the end of the next working day from the date that a foster home telephone number is changed.

**(6) HEATING.** (a) A foster home shall have a heating system that is capable of maintaining a comfortable temperature of not less than 68° F., or 20° C., in living areas.

(b) No foster home may be maintained at any time at a temperature of less than 68° F., or 20° C., during waking hours or 58° F., or 14° C., during sleeping hours unless written approval has been obtained from the licensing agency.

(c) Unvented gas, oil or kerosene space heaters may not be used in a foster home.

(d) 1. All wood-burning equipment in a foster home, except a fireplace, shall be inspected by a fire safety expert at least biennially and certified as properly installed and maintained as defined by the manufacturer's recommendations or specifications or other standards utilized by the fire safety expert. The licensee shall forward documentation of compliance with this paragraph to the licensing agency. If required by the licensing agency, a fireplace shall also be inspected by a fire safety expert.

2. In the event that a fire safety expert will not inspect or will not document an inspection of wood-burning equipment, the applicant or licensee shall permit the licensing agency to conduct an inspection of the equipment or shall provide the licensing agency with a statement from the homeowner's or renter's insurance provider confirming the provider's knowledge of the wood-burning equipment in the home.

(e) No heating equipment may be located so that it blocks or hinders an exit from the foster home.

**(7) STORAGE.** The licensee shall provide enough drawer and closet space to reasonably accommodate each foster child's clothing and other personal belongings.

**(8) OUTDOOR RECREATION AND PLAY SPACE.** (a) Each foster home shall have available outdoor recreation and play space either on the premises or nearby.

(b) A licensing agency may require a licensee to erect a fence around an on-premises play area when nearby vehicle traffic, railroad tracks, a swimming pool, a lake, a pond or river or a similar hazard presents a threat to the safety of foster children.

(c) Any outdoor porch on a first floor that is more than 4 feet above grade or on or above the second floor of a foster home shall have a railing suitably designed to safeguard foster children who may be on the porch.

**(9) MAINTENANCE AND REPAIR.** The foster home, all other buildings and structures on the premises and all equipment and furnishings shall be maintained in a safe and proper state of repair. Broken, rundown, defective, inoperative or unsafe building parts,

furnishings and equipment shall be promptly repaired, replaced or discarded.

**(10) SANITATION.** (a) The outside recreation and play space, furnishings and equipment for a foster home shall be maintained in a clean and sanitary condition.

(b) Windows that are used for ventilation shall be screened.

**History:** CR 00-020: cr. Register February 2002 No. 554, eff. 3-1-02; correction in (4) (g) made under s. 13.93 (2m) (b) 7., Stats., Register December 2003 No. 576.

**HFS 56.08 Safety. (1) GENERAL REQUIREMENTS.** (a) Materials and equipment that may be hazardous to children, such as power tools, flammable or combustible materials, insecticides, poisons, plastic bags, detergents, alcohol, tobacco products and medications, shall be stored in areas not readily accessible to foster children.

(b) The licensee shall make every reasonable effort to identify and immediately correct any hazard to the safety of foster children while the children are in the foster home, on the premises or being transported.

**(2) ELECTRICITY.** (a) Electrical systems and appliances shall be in good repair and maintained in a manner designed to protect the safety of foster children.

(b) A licensee caring for a foster child who is under 7 years of age shall maintain protective covers on all electrical outlets not in use.

**(3) HOUSEHOLD PETS.** (a) Cats, dogs and other pets vulnerable to rabies which are owned by any member of the household shall be vaccinated as required under local ordinance and documentation of the vaccinations shall be provided to the licensing agency.

(b) Household pets known to be vicious or infected with any disease transmittable to humans may not be kept in the foster home or elsewhere on the premises.

**(4) TRANSPORTATION.** (a) Any licensee or other person acting on behalf of the licensee who transports foster children for any purpose shall possess a valid driver's license. The licensing agency may establish additional requirements in this area by written policy.

(b) No licensee or person acting on behalf of a licensee may transport any foster child under 4 years of age in any private motor vehicle unless the foster child is secured by an approved child safety restraint as required in s. 347.48 (4), Stats.

(c) A foster child 4 years of age or over shall be restrained by either an approved child safety restraint or seat belts as appropriate to the child's age and size while being transported by a licensee or person acting on the licensee's behalf.

**(5) FIREARMS AND OTHER WEAPONS.** (a) Except as allowed under par. (d), no loaded firearm may be kept in a foster home.

(b) No unloaded firearm or other dangerous weapon may be kept in a foster home unless stored and locked in an area not readily accessible to foster children. Ammunition shall be stored and locked separately from weapons in an area not readily accessible to foster children.

**Note:** A firearm need not be locked in an area not readily accessible to foster children if the firearm has been disassembled in such a manner that it is not operable. Trigger locks alone do not meet the above requirement but may be a supplemental safety measure in addition to the firearm being stored and locked in an area not readily accessible to foster children.

(c) A foster child may be permitted to use firearms or bows for hunting or target practice only if all of the following conditions are met:

1. The child is at least 12 years of age.
2. The child's parent or guardian has given written consent and the child's foster parent and the supervising agency approve.
3. The child has successfully completed an approved hunter education and firearm safety program under s. 29.304, Stats.
4. The child is under the supervision of a responsible adult at all times.

(d) If the foster parent is a sworn law enforcement officer who is required to maintain a loaded weapon at all times, the loaded weapon shall be stored and locked in an area not readily accessible to foster children.

**(6) HAZARDOUS MACHINERY AND EQUIPMENT.** (a) No foster child under 14 years of age may, unless otherwise permitted by statute, operate any hazardous machinery or equipment.

(b) A foster child 14 years of age or older may operate hazardous machinery or equipment only if a written agreement has been signed by the child, the child's parent or guardian, the foster parent and the supervising agency, with a copy provided to all parties to the agreement.

(c) 1. No foster child may operate any machinery or equipment that is beyond his or her knowledge or mental or physical capability.

2. All hazardous machinery and equipment to be used by a foster child shall be maintained in safe and proper condition.

3. The foster child shall be under the general and appropriate supervision of a responsible adult when operating a hazardous machinery or piece of equipment.

4. a. The foster child shall be trained by the supervising adult on the safe and proper use and operation of any hazardous machinery or equipment before actually operating the hazardous machinery or equipment.

b. The agency may require attendance at specific training that is applicable to an applicant's home environment, such as farm safety and logging safety.

5. The foster child shall wear clothing and safety gear appropriate to the operation of particular hazardous machinery or equipment.

**(7) FIRE PROTECTION.** (a) *Smoke detectors.* A foster home shall have one or more single-station battery-operated, electrically interconnected or radio signal-emitting smoke detectors at each of the following locations in the home:

1. At the head of every open stairway.
2. On each floor of the home.
3. In each sleeping room.

**Note:** These smoke detector locations have been determined by a combination of standards found in ch. 2-2.1.1.1 of National Fire Protection Association (NFPA) standard 72, s. HFS 83.43 (4) (b), Stats., and s. Comm 21.09. The smoke detector at the head of an open stairway may also serve as the smoke detector for that floor of the home.

(b) *Smoke detector maintenance.* The licensee shall check the operating condition of each smoke detector at least once a month and shall immediately repair or replace any unit or part of a unit found to be inoperative. For a single-station battery-operated smoke detector, the battery shall be replaced at least once each year.

(c) *Fire extinguisher.* A fire extinguisher with a UL rating for A, B and C burning materials shall be available in or near the kitchen of a foster home. The foster parent shall know how to operate the fire extinguisher. Licensing agencies may also require a fire extinguisher near the sleeping areas of the home.

**(8) FIRE SAFETY EVACUATION PLAN.** (a) The licensee shall develop a written plan for the immediate and safe evacuation of the foster home in the event of a fire. The plan shall include the following:

1. The means to be used for emergency exiting from all floor levels of the foster home.

2. The place away from the foster home at which all evacuated members of the household shall meet so that it can be determined if all persons are out of danger.

(b) 1. The licensee shall review the fire safety evacuation plan with all household members at least once every 3 months and immediately following placement of a new foster child in the licensee's home.

2. The fire safety evacuation plan shall be posted in the home and its location made known to all household members.

(c) At least once every 2 years the licensing agency shall review the fire safety evacuation plan with the licensee and the licensee shall revise the plan if the licensing agency determines it is necessary.

**(9) FIRE SAFETY INSPECTION.** If required by the licensing agency, a foster parent shall arrange for a fire safety inspection by fire safety experts at any time there is cause for concern for the safety of household residents because of conditions in the foster home or elsewhere on the premises.

**(10) REPORTING FIRES.** The licensee shall report by no later than the end of the next working day to the licensing agency any fire in the foster home or elsewhere on the premises that requires the assistance of the fire department.

**(11) SAFETY OF INFANTS AND CHILDREN WITH DISABILITIES.** The licensing agency may impose additional safety conditions upon a licensee who provides care for foster children under one year of age or foster children with mental or physical disabilities when the age, impaired judgment or mobility of the children create additional safety risks. Any additional conditions imposed shall be in writing, shall be reviewed jointly by the licensing agency and licensee before taking effect and shall be reviewed by both parties for possible revision as often as necessary but at least annually.

**Note:** The agency may use the exceptional foster care rate to pay for any necessary adjustments to the foster home to meet the special needs of a foster child (e.g., a ramp to allow access to the home, a back-up generator for foster children requiring special medical equipment).

**(12) STAIRWAYS.** Each stairway shall have a handrail.

**History:** CR 00-020: cr. Register February 2002 No. 554, eff. 3-1-02.

**HFS 56.09 Care of foster children. (1) PRINCIPLES FOR NURTURING CARE.** The foster parent shall provide nurturing care to each child placed in a foster home. Nurturing care is care that does all of the following:

(a) Ensures that the child is provided a humane physical and psychological environment.

(b) Is respectful of the child as a person.

(c) Gives the child room to grow and the maximum of personal and physical freedom appropriate to the child's age and maturity.

(d) Does not deny a foster child access to confidential family planning services.

(e) Does not discriminate against the child because of the child's race or cultural identification, sex, age, sexual orientation, color, creed, ancestry, national origin or disability.

(f) Lets the child participate in community activities of the child's choice, including sports and activities of school, community, social and religious groups, with this participation restricted only by reasonable curfew hours, cost considerations, a court order or for a reason agreed upon by the foster parent and the licensing and supervising agencies.

(g) Gives the child reasonable opportunity to voluntarily participate or not participate in religious practices, activities and services of the child's choice or the choice of the child's parents. Any discrepancy in the child's choice and the choice of the child's parents shall be resolved by the child's case manager.

(h) Allows a foster parent to conduct a search without the foster child's consent if the foster parent believes a search is necessary to prevent harm to the foster child or another person or because the foster child is violating a law. The foster parent shall share the information about the search with the child's case manager.

(i) Lets a child keep and wear his or her own clothing as appropriate to the season or setting unless the clothing is too small for the child, is prohibited by the child's case manager or is otherwise unsuitable for wear.

**Note:** An example of clothing unsuitable for wear is clothing infested with lice.

(j) Permits a child to receive mail, to make and to receive a reasonable number of telephone calls and to visit with family, friends



and others unless a visit is contraindicated by the child's case plan, by a court order or by another controlling document.

(k) Does not inflict or tolerate infliction of physical or verbal abuse, physical punishment, ill treatment or harsh or humiliating discipline of the child.

(L) Does not require a child to perform labor that financially benefits the foster parent without the child's agreement, approval of the child's parent or guardian and approval of the supervising agency.

(m) Allows the child access to clothing and written and recorded materials and other items appropriate to the child's age and comprehension. None of these materials may be permanently withheld from the child without the specific consent of the child's worker. Any withheld material shall be given to the child's case manager who shall determine whether the material should be returned to the child or given to the child's parent or guardian. A foster child's personal belongings may not be damaged or destroyed.

**Note:** The primary intent of par. (m) is to allow a foster child to have clothes, books, recorded music and similar items which the child enjoys. If a foster parent does not wish to have certain types of such materials in his or her home, the foster parent should communicate that in writing to the licensing agency.

(n) Does not permit a child to be mechanically restrained or locked or confined in any enclosure, room, closet or other part of the house or premises for any reason, except as provided under sub. (5) (i).

**(2) SUPERVISION OF CHILDREN.** (a) The licensee may not combine the care of foster children with regular part-time care of other non-related children or adults or conduct business or provide services in the foster home without the written approval of the licensing agency. Approval by the licensing agency shall depend on the foster parent presenting satisfactory evidence that the additional activities will not interfere with the quality or manner of care provided foster children.

(b) Both foster parents may not be employed away from the home on a full-time, part-time or seasonal basis without written approval of the licensing agency. When there is only one foster parent, that person may not be employed away from the home without written approval of the licensing agency. Approval by the licensing agency for this employment shall depend on the foster parent or parents presenting satisfactory evidence that there are suitable plans for the care of the children and for responding in emergency situations during the absence of the foster parent or parents from the home.

(c) Any out-of-home provider of day care for foster children shall be licensed or certified under ch. HFS 45 or 46 or ch. DWD 55.

(d) A licensee may not leave foster children under 10 years of age without supervision by a responsible care provider.

(e) A licensee shall ensure that foster children 10 years of age or older receive responsible supervision appropriate to their age, maturity and abilities as might reasonably be provided by a prudent parent to that parent's own children.

(f) A foster parent shall secure authorization from the supervising agency before taking a foster child out of state for a period longer than 48 hours.

(g) A foster parent shall secure approval of the supervising agency before making plans for the care of a foster child by any other person in or away from the foster home for any period in excess of 48 hours. The supervising agency may require a foster parent to secure agency authorization for periods less than 48 hours for specific foster children that shall be specified in a placement agreement for the foster child.

(h) A foster parent may not regularly provide care for more than 2 children under 2 years of age.

(i) The combined total of foster children, children of the foster parent and other children and non-related adults receiving care in a foster home may not exceed 8.

**(3) HOUSEHOLD CHORES.** (a) A foster parent may require a foster child to share in household chores appropriate to the child's age, degree of maturity, mental capability, health and physical ability. These duties may not interfere with a child's school attendance, family visits, sleep, studies or religious practice and may not violate the humane and nurturing care described in sub. (1).

(b) Foster children may not be given responsibility for chores that may cause harm to themselves or others.

**(4) HEALTH OF FOSTER CHILDREN.** (a) Within 30 days after the date that the child is placed in foster care, the foster parent shall arrange for medical and dental examinations of the child in accordance with the schedule of the HealthCheck program. An appropriate reproductive health needs and confidential family planning assessment shall be a part of the medical examination as included in the HealthCheck program.

**Note:** If the foster parent does not receive an authorization to provide medical care form signed by a parent or guardian, the foster parent may not be able to obtain the required medical services for the child. Without the consent of the parent or guardian, it becomes the responsibility of the placing agency to ensure that the HealthCheck physical for the child is completed.

(b) All foster children shall receive medical and dental care under the HealthCheck program unless they have private insurance that covers services required in this chapter. The HealthCheck program shall supplement any required services not covered by private insurance. A foster child's record shall contain medical records utilizing the HealthCheck program forms.

(c) The foster parent shall notify the supervising agency as soon as possible if a foster child has any serious illness or any injury that requires medical treatment.

(d) The foster parent shall ensure that each foster child who needs medical attention receives appropriate and adequate medical services promptly.

(e) The foster parent shall ensure that each foster child under 13 years of age receives 2 dental examinations and cleanings per year and foster children 13 years of age and older receive one dental examination and cleaning per year through a HealthCheck program referral.

(f) No foster parent may purchase tobacco products for a child or employ the child's use of tobacco products as part of a treatment or behavior modification program.

**(5) DISCIPLINE.** (a) Disciplinary action by a foster parent or any other person serving as a substitute caretaker in the absence of the foster parent shall be aimed at encouraging the foster child to understand what is appropriate social behavior.

(b) The type of discipline imposed shall be appropriate to the child's age and understanding.

(c) Physical punishment of foster children is prohibited.

(d) A licensee may not subject any foster child to verbal abuse, profanity, derogatory remarks about the child or his or her family or to threats to expel the child from the home.

(e) A licensee may not permit another adult or child, other than a responsible care provider, to discipline a foster child.

**Note:** If the licensee leaves the foster child in the care of another person, such as a babysitter, that person is responsible for providing the discipline in accordance with this chapter and any licensing agency policies.

(f) No foster child may be punished by being deprived of meals, mail or family visits.

(g) No foster child may be punished or ridiculed for bed-wetting or other lapses in toilet training.

(h) No foster child may be mechanically restrained or locked in any enclosure, room, closet or other part of the house or elsewhere on the premises for any reason.

(i) No foster child may be punished by being restricted to an unlocked room or area of the home except as follows:

1. A foster child under 6 years of age may be restricted to an unlocked living area of the home for not longer than 10 minutes for any episode of misbehavior. The foster child shall be within

hearing of a responsible caretaker and shall be permitted use of the toilet if necessary.

2. A foster child 6 to 10 years of age may be restricted to an unlocked living area of the home for not longer than 30 minutes for any episode of misbehavior. The foster child shall be within hearing of a responsible caretaker and shall be permitted use of the toilet if necessary.

3. A foster child over 10 years of age may be restricted to an unlocked living area of the home for up to 60 minutes for any episode of misbehavior. The foster child shall be within hearing of a responsible caretaker and shall be permitted use of the toilet if necessary.

**(6) CLOTHING.** (a) The licensee shall ensure that funds allocated for the purchase of clothing for foster children are used in such a manner that children in the licensee's care are comfortably and appropriately dressed within the limits of the funds. Foster children's clothing shall be maintained in a state of good repair and cleanliness.

(b) Clothing purchased for a foster child or otherwise provided to a foster child with the understanding that the clothing belongs to the foster child shall be the property of the child and shall be given to the child to take when he or she leaves the foster home.

**(7) PERSONAL BELONGINGS.** Any special equipment and other personal belongings that a child had when he or she was placed in the foster home or that were given to the foster child to keep or received as gifts or that were purchased on behalf of the foster child with public funds, unless they are permanently affixed to the house, may be taken by the child when he or she leaves the foster home.

**(8) SPENDING MONEY.** The foster parent shall give each foster child spending money each week. The amount of spending money given to a foster child shall be appropriate to the child's age and maturity and in accordance with the child's case plan established by the supervising agency.

**(9) NUTRITION.** (a) The foster parent shall ensure that each foster child receives at least 3 meals a day. Meals a child receives as part of a meals program at school may be counted. A school-age foster child who does not participate in a school lunch program shall be provided a sack lunch or be provided lunch at the foster home or shall otherwise have lunch arranged for by or with the approval of the foster parent.

(b) The foster parent shall ensure that each foster child is provided a quantity and variety of foods sufficient to meet the child's nutritional needs and to maintain his or her health and growth.

(c) No foster child may be forced to eat against his or her wishes except by order of and under the supervision of a physician.

**(10) EDUCATION OF FOSTER CHILDREN.** (a) The foster parent shall make every reasonable effort to ensure that foster children of school age in their care attend school unless otherwise excused by school officials.

(b) The foster parent shall make every reasonable effort to participate, as appropriate, in school activities involving foster children in their care.

(c) The foster parent may not provide a home-based private educational program to foster children in their care. This does not apply to homebound study under s. 118.15 (1), Stats., or as defined in the child's individualized education program.

(d) Foster children shall be given the opportunity to develop appropriate friendships with schoolmates and to visit their friends.

(e) The foster parent shall provide suitable reading material and facilities for undisturbed reading and study for all foster children in their home who wish to read or who have homework assignments.

(f) The foster parent shall assist the agency and any contracted agency with the transfer of independent living skills to and the

preparation for independent living of a foster child whose permanency plan indicates the need for these skills and preparation.

**(11) CASE RECORDS.** (a) The foster parent shall maintain a record on each foster child. The record shall contain information regarding the child for the entire duration of the placement and shall contain at least the following information:

1. The child's name, nickname and any alias by which the child is known.

2. The child's birthdate.

3. The names, addresses and telephone numbers of persons to be notified in an emergency involving the foster child.

4. The date the child was received by the licensee for care.

5. The name, address and telephone number of the person or agency placing the child.

6. The name of the physician to be called in an emergency.

7. Medical information about the child, including known allergies and the dates of medical examinations, immunizations, illnesses and accidents since the time the child was placed in the foster home.

**Note:** This information must be included on the form required by ch. HFS 37.

8. The name and address of the child's dentist and dates the child received dental care since the child was in the foster home.

9. If the child attends school while in the foster home, the name of the school and the grades the child received.

(b) The foster parent shall give the foster child's record to the child's supervising agency when the child leaves the foster home.

(c) At the request of the licensing or supervising agency, the foster parent shall make the foster child's record available for inspection by that agency. A foster child's record may also be examined by authorized representatives of the department.

**(12) CONFIDENTIALITY.** The foster parent and other persons in the household having access to confidential information about the foster child and his or her family may not discuss or otherwise disclose that information to any other person while the child is in the foster home or after the child leaves the foster home, except as follows:

(a) To the licensing agency or agency placing the child in the care of the licensee.

(b) To another foster parent or respite care provider as authorized by the agency, such as when another foster parent is being considered as a placement for the child or the person is providing respite for the child.

(c) By order of a court.

(d) As otherwise provided by law.

**Note:** Disclosure of confidential information is governed by ss. 48.78 and 48.981 (7), Stats., and other state and federal laws and regulations.

**History:** CR 00-020: cr. Register February 2002 No. 554, eff. 3-1-02.

**HFS 56.10 Hearing. (1) APPEAL.** An applicant for a license to operate a foster home who is denied a license or a licensee whose license is revoked or whose application for renewal of the license is denied may appeal the decision by asking for a hearing in accordance with ch. 227, Stats.

**Note:** The appeal rights described in this section relate only to licensure decisions. Foster parents also have appeal rights for non-licensure decisions as provided under s. 48.64 (4), Stats., and ch. HA 3 rules. Any decision made by a circuit court regarding a placement or a placed child is not appealable by the foster parent under this section. Appeal of a finding that a foster parent abused or neglected a child shall also be pursuant to ch. 227, Stats.

**(2) REQUEST FOR A HEARING.** A request for a hearing shall be in writing and shall be addressed to the department of administration's division of hearings and appeals. The date of the request for a hearing shall be the date on which the request is received by that office. Any request for a hearing received more than 10 days after the 5<sup>th</sup> day following the notification of the decision of the agency that is being appealed shall be denied.

**Note:** The request for a hearing should be sent to the Division of Hearings and Appeals, P.O. Box 7875, Madison, Wisconsin 53707 or delivered to the Division at 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

(3) ARRANGEMENTS FOR A HEARING. In response to a request for a hearing under this section, the division of hearings and appeals shall appoint a hearing examiner, set a date for the hearing and notify the parties in writing at least 10 days before the hearing of the date, time and place of the hearing and of the procedures to be followed.

**History:** CR 00-020: cr. Register February 2002 No. 554, eff. 3-1-02.

**HFS 56.11 Supplemental payments for special needs, in exceptional circumstances or for initial clothing.** (1) COVERAGE. All foster home payments made directly to a foster parent by a county agency or the department for the care and maintenance of a foster child shall be subject to the basic maintenance rates established by s. 48.62 (4), Stats., and supplemental payment schedules, including initial clothing allowances, established by the department under this section.

(2) SPECIAL NEEDS. (a) Supplemental payments in recognition of special needs may be made in addition to the age-related rates specified in s. 48.62 (4), Stats., in an amount to be determined by the department for a foster child who requires more than the usual amount of care and supervision for the child's age because of special emotional, behavioral or physical and personal needs.

(b) The placing agency shall assess each foster child within 30 days after the child's placement in a foster home and not less often than at 6 month intervals thereafter while the child remains in foster care to determine if the child has special needs which require a supplemental payment. The assessment of the foster child's special emotional, behavioral or physical and personal needs shall be made by comparing the child's characteristics to the schedule of difficulty-of-care levels described in sub. (3).

(c) If a foster child does not exhibit characteristics commensurate with level B, C or D of emotional, behavioral or physical and personal special needs categories described in sub. (3), no supplemental payment may be made. If the foster child exhibits characteristics commensurate with level B, C or D in one or more of the emotional, behavioral or physical and personal special need categories, a supplemental payment in an amount to be determined by the department shall be paid.

(d) The placing agency shall document in the child's case record the characteristics of any selected level of care.

(3) SCHEDULE OF DIFFICULTY-OF-CARE LEVELS. (a) *Emotional*. 1. "Level A, not applicable" children do not exhibit unusual emotional characteristics for foster children in their age group.

2. "Level B, minimal" children exhibit behavior that includes or corresponds in extent or degree with at least 2 of the following characteristics:

- a. Demanding excessive attention from others.
- b. Nervous, high-strung, impulsive and displaying temper tantrums.
- c. Restless and hyperactive, having a short attention span and occasionally wetting during the night.
- d. Exhibiting low self-esteem and lacking confidence in their ability to deal with the world.
- e. Periodically withdrawn and unresponsive.

3. "Level C, moderate" children exhibit behavior that includes or corresponds in extent or degree with at least 2 of the following characteristics:

- a. Habitually resistive and having difficulty communicating with others, often failing to do what is expected of them.
- b. Typically respond to situations with apathy, showing a lack of any interest.
- c. Have difficulty in establishing relationships and set up others for rejection.
- d. Display cultural and social conflicts.
- e. Frequent night bed-wetters or occasionally defecate in bed clothes or both.

f. Display over-activity and over-excitedness, necessitating close supervision.

4. "Level D, intensive" children exhibit behavior that includes or corresponds in extent or degree with one or more of the following characteristics, and the characteristics are severe:

- a. Infantile personalities.
- b. Wet or defecate in clothing during daytime hours several times a week.
- c. Severe hyperactivity to the point of frequent destructiveness or sleeplessness.
- d. Chronically withdrawn, depressed or anxious.
- e. Self-injurious, require constant and intensive supervision and may be involved in behavioral management programs or show bizarre or severely disturbed behavior.
- f. Display anorexia nervosa.

(b) *Behavioral*. 1. "Level A, not applicable" children do not exhibit unusual behavioral characteristics for foster children in their age group.

2. "Level B, minimal" children exhibit behavior that includes or corresponds in extent or degree with at least 2 of the following characteristics:

- a. Run away infrequently for up to 2 days with the intention of returning.
- b. Occasionally skip classes or an entire day of school, affecting class achievement and requiring make-up school work and parent contact with the school.
- c. Use sexual acting-out or language as an attention-getting mechanism and occasionally experiment with alcohol, drugs or both.

d. Infrequent conflicts with parents or community authorities, including displays of hostility and occasional petty theft, vandalism or both.

e. Exhibit occasional aggressive behavior such as biting, scratching or throwing objects at another person.

3. "Level C, moderate" children exhibit behavior that includes or corresponds in extent or degree with at least 2 of the following characteristics:

- a. Run away 4 to 7 times a year for 3 or 4 days at a time and requires encouragement to return.
- b. Truant from school one to 2 times a month for more than one day, resulting in delayed academic progress including performance below their ability that may lead to class failure, possible suspension and frequent parent contact with the school.
- c. Exhibit sexual activity harmful to themselves and disruptive to their family and community relationships.
- d. Occasionally have been involved in non-violent crimes such as burglary, which caused conflict with authority.
- e. Exhibit frequent aggressive behavior such as biting, scratching or throwing objects at another person.
- f. Exhibit occasional self-abusive behavior such as banging their heads, poking their eyes, kicking themselves or biting themselves.

4. "Level D, intensive" children exhibit behavior that includes or corresponds in extent or degree with one or more of the following characteristics, and the characteristics are severe:

- a. Runs away 8 or more times a year for 5 or more days at a time, returning only on the initiative of others.
- b. Habitually create a disturbance in the classroom or be habitually truant from school resulting in class failure, frequent suspension or expulsion, and requiring frequent parent contact with the school.
- c. Exhibit sexual deviancy, including that of a violent nature or nonconsenting involvement of others.
- d. Habitually use alcohol, drugs or both.

e. Exhibit uncontrollable behavior, be involved in property offenses repeatedly with adjudication on more than one property offense that is as serious as burglary, and have committed acts such as arson, physical assault or armed robbery.

f. Exhibit aggressive behavior on a daily basis, such as biting, scratching or throwing objects at another person.

g. Exhibit frequent self-abusive behavior such as banging their heads, poking their eyes, kicking themselves or biting themselves. These children may eat inappropriate items such as rubber or metal.

(c) *Physical and personal care.* 1. "Level A, not applicable" children do not exhibit unusual physical or personal characteristics for foster children in their age group.

2. "Level B, minimal" children exhibit physical or personal characteristics that include or correspond in extent or degree with one or more of the following:

a. Needs some help with putting on braces or prosthetic devices and help with buttons or laces but basically care for themselves and are able to maintain their own physical assisting devices.

b. Seizures or motor dysfunctions that are controlled by medication. Therapy for gross or fine motor skills can be done with supervision for children to achieve normal conditions. These children may require special diet preparation.

3. "Level C, moderate" children exhibit physical or personal characteristics that include or correspond in extent or degree with one or more of the following:

a. Needs help with dressing, bathing and general toilet needs, including maintenance procedures such as diapering and applying catheters, and requires the help of a person or a device to walk or get around.

b. Needs assistance to care for and maintain physical assisting devices.

c. Has feeding problems such as excessive intake, extreme messiness or extremely slow eating requiring help, supervision or both.

d. Needs tube or gavage feeding.

e. Requires special care to prevent or remedy skin conditions such as decubiti and severe eczema.

**Note:** The administration of medications and preparation of special diets are demanding, and prescribed physical therapies such as those for vision, hearing, speech or gross or fine motor skills require one to 2 hours a day.

4. "Level D, intensive" children exhibit physical or personal characteristics that include or correspond in extent or degree with one or more of the following:

a. Non-ambulatory, may have uncontrollable seizures and need appliances for drainage, colostomy, aspiration or suctioning.

b. Even with proper medical attention, vision, speech or hearing functions are impaired and may require foster parent training.

c. Need daily prescribed exercise routines to improve or maintain gross or fine motor skills that require home administration.

d. Require prevention procedures such as daily irrigation.

e. Require extra cleaning and laundry to maintain body hygiene and control of the child's body waste.

f. Orthotics care.

g. Prescribed physical therapies taking 2 to 3 hours a day.

(4) **EXCEPTIONAL PAYMENT.** An exceptional payment in an amount to be determined by the placing agency pursuant to the department's uniform foster care rate policy may be made in addition to the age-related rates and special needs payment when the additional payment will accomplish any of the following:

(a) Enable the child to be placed in a foster home or treatment foster home instead of being placed or remaining in a more restrictive setting.

(b) Replace a child's basic wardrobe that has been lost or destroyed through other than normal wear and tear.

(5) **INITIAL CLOTHING ALLOWANCE.** A clothing allowance may be paid by the placing agency upon a child's initial placement in foster care. The amount of the allowance shall be the actual cost of the clothing not to exceed a maximum as determined by the department. The placement of a child in foster care for 120 days or more after the child has been removed from an out-of-home care placement shall be considered an initial placement.

**History:** CR 00-020: cr. Register February 2002 No. 554, eff. 3-1-02.

**HFS 56.12 Foster parent education.** (1) **STATEWIDE MANDATORY FOSTER PARENT TRAINING.** (a) *Commencement.* Implementation of this section shall be dependent upon the availability of funds for the purpose of foster parent training.

(b) *Purpose.* This section implements s. 48.675, Stats., which provides for the continuing education of persons who operate foster homes and care for children with special treatment needs.

(c) *To whom the rules apply.* This section applies to all individuals licensed to operate foster homes who voluntarily participate in this educational program, to applicants and foster parents required by a licensing agency to receive training prior to the issuance of a license or renewal of a license and to all persons, agencies and educational institutions providing educational services for this program.

(d) *Inventory of training resources.* The department, working with appropriate foster parent groups and county agencies, shall conduct and maintain an inventory of resources for foster parent training and periodically assess the training needs of foster parents.

(e) *Advisory committee.* A statewide advisory committee appointed by the department and representing county agencies, foster parents, vocational-technical education, the university system, disability and special interest groups and the department's division of children and family services shall study needs and resources and advise the department on specific training needs.

(f) *Sponsorship.* 1. The department shall approve training materials, courses and workshops for foster parents developed under s. 48.675, Stats., and shall coordinate statewide, regional and local training programs to prevent duplication of effort.

2. Training materials, courses and workshops may be developed by, or purchased from, public or private educational institutions, the department, county agencies, other public agencies and voluntary social welfare agencies, and from qualified individuals.

(g) *Qualifications of trainers.* Persons preparing or presenting materials for foster parent training shall present educational and experiential credentials which indicate their expertise in the subject matter as well as an ability to communicate their knowledge.

(h) *Funding of training.* 1. Foster parent expenses for transportation and childcare in connection with training shall be reimbursed by the department, as follows:

a. Transportation expenses, to include travel, parking and meals, shall be reimbursed at the rate for state employees.

b. Care of residents of foster homes while foster parents are attending approved training shall be reimbursed at the county-approved rate.

2. Fees for course materials shall be paid by the department.

3. Fees for trainers and for preparation of materials shall be paid by the department.

(i) *Criteria for evaluating training materials and courses.* 1. Training shall be responsive to demonstrated needs of foster parents.

2. Training shall be planned and executed based upon adult education principles that include, but are not limited to, participatory learning, learning material appropriate to participants' specific needs and sequenced educational programming.

3. The content of training shall depend on the educational background and sophistication of foster parents. General courses shall include content areas suggested by the department.

**(2) LICENSING AGENCY MANDATED FOSTER PARENT TRAINING.** The department may authorize an agency to establish and implement its own pre-licensing and post-licensing training requirements for applicants and foster parents who have applied to the licensing agency for a foster home license.

**History:** CR 00-020: cr. Register February 2002 No. 554, eff. 3-1-02.