

**WISCONSIN
ADMINISTRATIVE CODE**

**Department of Children and Families
Division of Early Care and Education**

DCF 250

**LICENSING RULES FOR FAMILY
CHILD CARE CENTERS**

effective January 1, 2009

PREFACE

**DCF 250
LICENSING RULES FOR FAMILY CHILD CARE CENTERS
Effective January 1, 2009**

Section 48.65, Stats., requires that persons operating child care centers which provide care and supervision for 4 or more children under age 7 years for less than 24 hours a day be licensed. The statutes also require the Department of Children and Families to establish rules which must be met in order to qualify for a license and which protect and promote the health, safety and welfare of the children in the care of the child care center.

Chapter DCF 250 is the rule governing Family Child Care Centers, which provide care and supervision to between 4 and 8 children under age 7 years for less than 24 hours a day. There are also other rules governing the out-of-home care of children. DCF 251 is the rule for Group Child Care Centers where care and supervision is provided for 9 or more children under age 7. DCF 252 is the rule for day camps which are licensed child care centers that provide an experience in a seasonal program oriented to the out-of-doors for periods of less than 24 hours a day.

Licensing rules should not be confused with certification for public funding of child care providers who care for between 1 and 3 children under age 7.

Clearly, the fact that a child care center is licensed in no way diminishes the responsibility of parents for vigilance in ensuring that their children are receiving care which protects their physical well-being and encourages healthy intellectual and emotional development.

Whenever the rules in this chapter indicate that materials such as an application for licensure, a request for exception to a specific rule or a complaint about a center are to be sent to or requested from the Department, please refer to Appendix A which identifies the appropriate regional licensing office serving the county in which the center is located.

There is a header on each page that contains the rule cite for the section of the rule beginning on that page. A table of contents and an index are also included in this document as are appendices that contain key statutes related to the child care rules, a copy of DHS 12 (administrative rules governing caregiver background checks), a list of items needed for a family child care center and other appendices referenced in the rule.

This publication may be duplicated. It is available from the Department's web page <http://dcf.wisconsin.gov/childcare/licensed/Index.HTM>.

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DCF 250.01 Authority and purpose. This chapter is promulgated under the authority of s. 48.67, Stats., to carry out licensing requirements under s. 48.65, Stats., for family child care centers. The purpose of the chapter is to protect the health, safety and welfare of children being cared for in family child care centers.

DCF 250.02 Applicability.

(1) INCLUDED AND EXCLUDED CARE ARRANGEMENTS. This chapter applies to all family child care centers, but does not include any of the following:

Note: Section 48.65(2), Stats., exempts parents, guardians and certain other relatives; public and parochial (private) schools; persons employed to come to the home of the child's parent to provide care for less than 24 hours per day; and counties, cities, towns, school districts and libraries that provide programs for children primarily intended for social or recreational purposes from the requirement for a license. As specified under s. 49.155(4), Stats., or s. DCF 201.04(1), programs, other than those operated by public schools, are required to be licensed by the department or certified by a county agency in order to be eligible to receive a child care subsidy.

(a) Care and supervision of children in a program that operates no more than 4 hours a week.

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

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

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

(e) Care and supervision in emergency situations.

(f) Care and supervision while the parent is employed on the premises if the parent's child receives care and supervision for no more than 3 hours a day.

(g) Care and supervision provided at the site to the child of a recipient of temporary assistance to needy families, or Wisconsin works, who is involved in orientation, enrollment or initial assessment prior to the development of an employability plan or the child care is provided where parents are provided training or counseling.

(2) EXCEPTION TO THE REQUIREMENT. The department may grant an exception to a requirement of this chapter when a family child care center demonstrates to the satisfaction of the department that granting the exception will not jeopardize the health, safety or welfare of any child served by the center. A request for an exception shall be in writing, shall be sent to the department and shall include justification for the requested action and a description of any alternative provision planned to meet the intent of the pertinent provision in this chapter.

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

250.03

DCF 250.03 Definitions. In this chapter:

(1) “Care” means providing for the safety and the developmental needs of a child in a family child care center.

(2) “Caregiver background check” means the retrieval of information about an individual’s past criminal conduct pursuant to s. 48.685, Stats., and ch. DHS 12 that may bear on the suitability of that individual to assume a child caregiving role or have regular contact with children at the center.

(3) “Center-provided transportation” means transportation in a vehicle owned by or contracted for the center or a vehicle owned by the licensee or an employee that is used to transport children, but does not include a vehicle owned and driven by a parent or volunteer.

(4) “Complaint” means an allegation of violation of this chapter or ch. 48, Stats.

(4m) “Crib” means a bed for an infant or young child that is enclosed on 4 sides including play pens and portable cribs.

(5) “Department” means the Wisconsin department of children and families.

(6) “Emergency” means situations such: as fire, tornado, flood, extreme outdoor heat or cold, loss of building service including, no heat, water, electricity or telephone, threats to the building or its occupants, lost or missing children or a provider family situation such as a medical emergency, illness or other circumstance requiring immediate attention.

(7) “Emergency back-up provider” means a designated adult available within 5 minutes of the premises who can provide assistance in the event an emergency occurs that requires a provider to leave the premises occasionally for a short period of time.

(8) “Employee” means any adult who is compensated to provide care and supervision of children enrolled in a family child care center, including a helper or assistant to a child care provider.

(9) “Family child care center” or “center” means a facility where a person provides care and supervision for less than 24 hours a day for at least 4 and not more than 8 children who are not related to the provider.

(10) “Field trip” means any experience a child has away from the premises of the center while in the care of center staff, whether a child walks or is transported.

(11) “Fit and qualified” means displaying the capacity to successfully nurture and care for children and may include consideration of any of the following:

(a) Abuse of alcohol or drugs.

(b) A history of a civil or criminal conviction or administrative rule violation that substantially relates to caring for children, as described in ch. DHS 12.

(c) Exercise of unsound judgment.

(d) A history of civil or criminal offenses or any other action that demonstrates an inability to manage the activities of a center.

(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 home” means any facility that is operated by a person required to be licensed under s. 48.62(1)(a), Stats., and that provides care and maintenance for no more than 4 foster children, or, if necessary to keep siblings together, for no more than 6 foster children.

250.03(13m)

(13m) “Hazard” means a potential source of harm that can jeopardize the health, safety or well-being of a child in care.

(14) “HealthCheck provider” means a provider of health assessment and evaluation services eligible to be certified under s. DHS 105.37(1)(a).

(14m) “Household member” means any person who resides, or is expected to reside, at the family child care center and who has or may have direct contact with a child in the care of the center, whether or not related to the licensee.

(15) “Inclement weather” means stormy or severe weather such as any of the following:

- (a) Heavy rain.
- (b) Temperatures above 90 degrees Fahrenheit.
- (c) Wind chills of 0 degrees Fahrenheit or below for children age 2 and above.
- (d) Wind chills of 20 degrees Fahrenheit or below for children under age 2.

(16) “Infant” means a child under one year of age.

(17) “In care” means enrolled in the center, with the center providing supervision, either on or off the premises, for the safety and the developmental needs of the child or children.

(18) “Licensee” means the individual, corporation, partnership, limited liability company, non-incorporated association or cooperative that has the legal and fiscal responsibility for the operation of a center and for meeting the requirements of this chapter.

(19) “Licensing representative” means a department employee responsible for licensing family child care centers.

(20) “Mildly ill” means a child who has a common, temporary illness that is non-progressive in nature and is not listed on the communicable disease chart in appendix A of ch. DHS 145.

(21) “Night care” means any care that is offered by a licensed family child care center between 9:00 PM and 5:00 AM.

(22) “Parent” means either “parent” as defined in s. 48.02(13), Stats., or “guardian” as defined in s. 48.02(8), Stats.

(23) “Physical restraint” means the use of physical force to restrict the free movement of all or a portion of a child’s body.

(24) “Physician” has the meaning given in s. 448.01(5), Stats.

(25) “Physician assistant” has the meaning given in s. 448.01(6), Stats.

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

(27) “Provider” means an adult who has met the requirements specified in s. DCF 250.05(1) in a family child care center and who provides care and supervision of the children in the care of the center.

(28) “Provider’s own children” means a provider’s natural or adopted children, foster children, stepchildren, or other children who reside in the family child care center.

250.03(29)

(29) “Representative of the department” means a department employee or a representative from an agency the department contracts with to provide pre-licensing services.

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

(30m) “Shaken baby syndrome” or “SBS” means a severe form of brain injury that occurs when an infant or young child is shaken or thrown forcibly enough to cause the brain to rebound against his or her skull.

(31) “Sleeping bag” means a padded fabric bag that is closed or capable of being closed on 3 sides.

(32) “Substitute” means a provider who replaces another provider on a pre-arranged basis.

(33) “Sudden infant death syndrome” or “SIDS” means the sudden death of an infant under one year of age that remains unexplained after a thorough case investigation, including performance of a complete autopsy, examination of the death scene and a review of the clinical history.

(34) “Supervision” means guidance of the behavior and activities of children while awake and asleep for their health, safety and well-being by a provider who is within sight or sound of the children except as specified in ss. DCF 250.05(3)(j) and (m) and 250.07(7)(e).

(35) “Toddler” means a child at least one year of age but less than 2 years of age.

(36) “Universal precautions” means measures taken to prevent transmission of infection from contact with blood or other potentially infectious material, as recommended by the U.S. public health service’s centers for disease control and adopted by the U.S. occupational safety and health administration (OSHA) as 29 CFR 1910.1030.

Note: “Standard precautions” for infection control measures incorporate universal precautions. Information on the OSHA requirements related to standard or universal precautions is available on the OSHA web site at <http://www.osha.gov>. Information is also available from the Child Care Information Center, 1-800-362-7353.

(37) “Volunteer” means a person who is not paid, but who agrees to give time, with or without reimbursement for expenses, to transport children attending a family child care center or to work in a family child care center.

(38) “Wading pool” means a shallow pool, with sides of 15 inches or less in height, capable of being dumped to change water and used primarily for small children.

DCF 250.04 Operational requirements.**(1) TERMS OF LICENSE.**

(a) The number of children in the care of a family child care center at any time may not exceed the number for which the center is licensed.

(b) The age of children served by a center may not be younger or older than the age range specified in the license issued.

(c) The hours, days and months of a center's operation may not exceed those specified in the license.

(2) ADMINISTRATION. A licensee shall do all of the following:

(a) Comply with all laws governing the facility and its operation.

(b) Comply with all requirements in this chapter.

(c) Ensure that all information provided to the department is current and accurate.

(d) Prior to receiving or continuing a license, complete all application forms and pay all fees and forfeitures due to the department.

Note: The Department will provide an application after a Department representative completes the provision of pre-licensing technical assistance.

(e) Develop, submit to the department for compliance review, implement and provide to the parents written policies and procedures related to all of the following:

1. Enrollment and discharge of enrolled children.

2. Fee payment and refunds.

3. Child and provider absences, including a procedure to contact a parent if a child is absent from the center without prior notification from the child's parent.

4. Children's and staff's health care, including those policies and procedures pertaining to SIDS risk reduction, if the center is licensed to care for children under one year of age.

5. Nutrition.

6. Daily activities of the children.

7. Child guidance, including appropriate ways to manage crying, fussing or distraught children.

8. Transportation of children for any purpose including field trips. The policy shall include a procedure to ensure that no child has been left unattended in a vehicle.

9. Religious instruction or practices, if any.

10. Information related to the numbers, types and location of pets or other animals located on the premises of the center and the type of access the children will have to the pets.

Note: Under the state public accommodation law, s. 106.04, Stats., federal law and regulations related to use of federal funding, and some local anti-discrimination ordinances, denying admission on the basis of race, handicap, religion or certain other characteristics may be illegal.

(f) Develop, submit to the department for approval and implement a written orientation plan for any employees, substitutes and emergency back-up providers. The orientation plan shall cover all the items described in s. DCF 250.05(2)(a) and (b).

Note: See s. DCF 250.05(2)(a) and (b) regarding providing an orientation to employees, substitutes and emergency back-up providers.

(g) Provide written information to parents on whether a licensee has insurance coverage on the premises, on the child care operation and on vehicles if transportation is provided. Liability insurance on the child care business is required if cats or dogs are allowed in areas accessible to children during the hours of operation as specified in s. DCF 250.07(7)(h).

Note: The information provided could be included as a rider on a homeowner policy or a separate insurance policy on the child care business. A certificate of insurance or other documentation from an insurance company that indicates the number of children covered, dates of coverage and types of pets covered is acceptable.

(h) Post the child care license in a location where parents can see it during the hours of operation.

(i) Post next to the child care license the results of the most recent licensing inspection, including any rule violations cited by the department, any notice of enforcement action, including revocation or denial, and any stipulations, conditions, exceptions or exemptions that affect the license. Items posted shall be visible to parents.

250.04(2)(j)

(j) Ensure that any action, by commission or omission, or any condition or occurrence relating to the operation or maintenance of the child care center does not adversely affect the health, safety or welfare of any child under the care of the licensee.

(k) Meet, upon request of the department, with a licensing representative on matters pertaining to the license.

(L) Submit to the department by the department's next business day a completed Background Information Disclosure form and appropriate caregiver background check fees when a person aged 10 and above becomes a household member.

(m) Submit to the department by the department's next business day a completed Background Information Disclosure form for each current household member who turns age 10.

Note: For more information about caregiver background checks refer to the administrative rule under ch. DHS 12. Information on how to obtain a copy of the Background information Disclosure form is available on the department's website, <http://dcf.wisconsin.gov>, or from any regional licensing office in Appendix A.

(3) REPORTS. The licensee shall report to the department all of the following. If the report is made by telephone, the licensee shall submit a written report to the appropriate regional licensing office within 5 business days of the incident. Fax, e-mail and letter are acceptable ways of filing a written report:

(a) Any death of a child in care, or any incident or accident that occurs while the child is in the care of the center that results in an injury that requires professional medical treatment, within 48 hours of the licensee becoming aware of the medical treatment.

Note: The licensee may use either the department's form, Accident Report — Child Care Centers, available from any regional licensing office in Appendix A, the department's web site, <http://dcf.wisconsin.gov> or the licensee's own form to report incidents, accidents and deaths.

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

(c) Any construction or remodeling on the premises that has the potential to affect an area accessible to children or a condition of the license. Notification shall be provided in writing before the construction or remodeling begins.

Note: See s. DCF 250.11(6)(a) for items that affect a condition of the license.

Note: It is recommended that the licensee check with the local municipality to determine whether a building permit is required before beginning any construction or remodeling.

(d) If requested by the department, a plan of correction for cited violations of this chapter or ch. 48, Stats., in a format specified by the department. The department shall receive the plan of correction by the date the department specifies and be approved by the department licensing representative.

Note: The licensing representative will notify the licensee whether a plan of correction will be required and will provide the plan of correction format with the notification.

(e) Any known convictions, pending charges or other offenses of the licensee, a provider, household member or other person subject to a caregiver background check which could potentially relate to the care of children at the center or activities of the center by the department's next business day.

(f) Any incident related to a child who leaves the premises of the center without the knowledge of a provider or any incident that results in a provider not knowing the whereabouts of a child in attendance at the center within 24 hours of the incident.

(g) Any incident involving law enforcement within 24 hours after the occurrence that:

1. Involves a licensee, a household resident or an employee of the center in an incident that causes, or threatens to cause, physical or serious emotional harm to an individual, including a child in the care of the center.

2. Involves any traffic-related incident where a person responsible for the violation transports children in the care of the center.

(h) Any change in room usage, such as using rooms not previously approved for use at least 20 working days prior to the change. Changes in room usage shall be approved by the department prior to the change.

250.04(3)(i)

(i) Any suspected abuse or neglect of a child by a provider, volunteer or household member that was reported under sub. (8)(a), or any inappropriate discipline of a child by a provider, volunteer or household member including any incident that results in a child being forcefully shaken or thrown against a hard or soft surface during the child's hours of attendance within 24 hours after the incident.

Note: See also s. DCF 250.07(2) for information on guiding children's behavior and sub. (6)(c) regarding recording injuries in a center medical log.

(j) A change in transportation services at least 5 calendar days prior to the change. A change in transportation services shall be approved by the department.

(k) Statistical data required by the department on forms provided by the department.

Note: The Department periodically requests statistical data from licensees. An example of the type of data collected relates to the immunization status of children in care. When the Department requests statistical data, the Department will supply the appropriate form.

(L) Seasonal closings at least 5 calendar days before the closing.

(m) Any confirmed case of a communicable disease reportable under ch. DHS 145 in a child enrolled in the child care center or a person in contact with children at the center within 48 hours.

Note: See s. DCF 250.07(6)(e)1. for other requirements relating to communicable disease reporting.

(4) PARENTS.

(a) The center shall permit parents to visit and observe the center's operations at any time during the center's hours of operation unless parental access is prohibited or restricted by court order.

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

Note: Copies of a summary of this chapter may be obtained from the Child Care Information Center by calling 1-800-362-7353.

(c) The licensee shall notify a parent of a child in care of all of the following circumstances:

1. The child is or has been exposed to a diagnosed or suspected communicable disease reportable under ch. DHS 145 as specified under s. DCF 250.07(6).

Note: The Wisconsin Division of Public Health has developed materials that identify those communicable diseases that are required to be reported to the local public health officer. The materials include a communicable disease chart and exclusion guidelines for child care centers. Copies of the communicable disease chart or the exclusion guidelines for child care centers are available from the Child Care Information Center 800-362-7353.

2. The child becomes ill or is injured seriously enough to require professional medical treatment. Notification shall be made immediately.

3. The child has sustained a minor injury that does not appear to require professional medical treatment. Notification may be made when the child is picked up at the center or delivered to the parent or other authorized person.

4. The date, time and destination of any field trip as specified in sub. (6)(a)2.

(5) STAFF RECORDS. The licensee shall maintain a file for each provider, employee, or substitute and make the file available for review by the licensing representative. The file shall contain all of the following:

(a) A completed staff record form provided by the department.

Note: The department's form, Staff Record — Child Care Centers, is used for recording staff information. Information on how to obtain the form is available on the department's website, <http://dcf.wisconsin.gov>, or from any regional licensing office in Appendix A.

(b) A completed background information disclosure form provided by the department that does not reveal any information that may preclude the person's contact with children under s. 48.685, Stats., or ch. DHS 12 prior to the first day of work and every 4 years thereafter.

Note: The department's form, Background Information Disclosure, is used for reporting employee background information. Information on how to obtain the form is available on the department's website, <http://dcf.wisconsin.gov>, or from any regional licensing office in Appendix A.

(c) The results of the complete caregiver background check including any report of any investigation required under ch. DHS 12 within 60 days after hire and every 4 years thereafter.

Note: If the licensee is a provider, the department is responsible for collecting the completed Background Information Disclosure form and conducting the necessary caregiver background check on the licensee.

(d) Documentation of the actual hours a provider, substitute, employee or volunteer has worked and whose time is used to meet the applicable staff to child ratio under Table DCF 250.05.

250.04(5)(e)

(e) Except as provided under par. (f), a physical examination report on a form provided by the department that was completed within 12 months prior to or 30 days after the person became licensed or began working with children. The report shall be dated and signed by a licensed physician, physician's assistant or HealthCheck provider. The report shall indicate all of the following:

1. That the person is free from illness detrimental to children, including tuberculosis.
2. That the person is physically able to work with young children.

Note: The department's form, Staff Health Report — Child Care Centers, is used for recording physical examination information. Information on how to obtain the form is available on the department's website, <http://dcf.wisconsin.gov>, or from any regional licensing office in Appendix A.

(f) The health examination requirement under par. (e) does not apply to a provider who requests an exemption from par. (e) based on the provider's adherence to religious belief in exclusive use of prayer or spiritual means for healing in accordance with a bona fide religious sect or denomination.

(g) Documentation of the entry level training requirements under s. DCF 250.05(1)(b).

(h) Documentation of the training required under s. DCF 250.05(1)(b)7. in shaken baby syndrome prevention.

(i) For persons who transport children, a copy of the person's driver's license and driving record that is obtained by the licensee under s. DCF 250.08(3)(b).

(j) Documentation of the continuing education required under s. DCF 250.05(1)(b) 4. and 5.

(k) For persons licensed or beginning work with children on or after January 1, 2009, a certificate from The Registry. Substitutes are not required to have a Registry certificate until they have worked for 240 hours.

(6) CHILDREN'S RECORDS.

(a) The licensee shall maintain a current written record at the center on each child enrolled, including the provider's own children under age 7, and shall make the record available to the licensing representative on request. Each record shall include all of the following:

1. Enrollment information and health history on a form provided by the department. The enrollment information and health history shall be on file prior to the child's first day of attendance.

Note: The department's forms, Child Care Enrollment and the Health History and Emergency Care Plan, are used for recording enrollment and health history information. Information on how to obtain department forms is available on the department's website, <http://dcf.wisconsin.gov>, or from any regional licensing office in Appendix A. See s. DCF 250.07(6)(L)5. for information on sharing information related to a child's special health care needs.

2. Parental authorization for the child to participate in and be transported for field trips and other activities if these are part of the program.

Note: The department's form, Child Care Enrollment, includes a blanket authorization to take children on field trips. The department's form, Field Trip or Other Activity Notification, or another type of notification such as a note to a parent may be used to provide specific information about a field trip. Information on how to obtain department forms is available on the department's website, <http://dcf.wisconsin.gov>, or from any regional licensing office in Appendix A.

3. A written agreement, signed by the parent, outlining the plan for a child to come to the center from school, home or other activities and to go from the center to school, home or other activities unless the child is accompanied by a parent or other authorized person or the child is transported by the center.

Note: The licensee may use either the department's form, Alternate Arrival/Release Agreement — Child Care, or the licensee's own form for securing the parent's signed agreement. Information on how to obtain the form is available on the department's website, <http://dcf.wisconsin.gov>, or from any regional licensing office in Appendix A.

4. Documentation of each child's immunization history and, except for a school-aged child, the most recent physical examination.

Note: See DCF 250.07(6)(L)1. and 2. for information on frequency of health exams. The department's form, Child Health Report — Child Care Centers, is used to document a child's health exam. Information on how to obtain the department form is available on the department's website, <http://dcf.wisconsin.gov>, or from any regional licensing office in Appendix A.

5. Written permission from the parents under s. DCF 250.07(6)(k) for medical attention to be sought for the child if the child is injured.

250.04(6)(a)6.

6. For an infant or toddler, a current statement from the parent on a form provided by the department about the infant or toddler's habits of eating, sleeping, toileting and communication, and specific techniques that appear to comfort the child.

Note: The department's form, Intake for Child Under 2 Years, is used for recording the infant's or toddler's habits. Information on how to obtain the department's form is available on the department's website, <http://dcf.wisconsin.gov>, or from any regional licensing office in Appendix A.

(b) The licensee shall maintain a current, accurate written record of the daily attendance on a form prescribed by the department that includes the actual time of arrival and departure for each child for the length of time the child is enrolled in the program.

Note: The department's form, Daily Attendance Record — Child Care, is used for recording a child's daily attendance. Information on how to obtain the department's form is available on the department's website, <http://dcf.wisconsin.gov>, or from any regional licensing office in Appendix A.

(c) The licensee shall maintain a medical log book with pages that are lined and numbered and a stitched binding. A provider shall record in ink any injuries received by a child, evidence of unusual bruises, contusions, lacerations or burns received by a child in or out of center care or medication dispensed to a child in the medical log and sign or initial each entry. Pages may not be removed or lines skipped.

Note: Licensees may obtain information about maintaining a medical log book by contacting the Child Care Information Center at phone number 800-362-7353.

Note: See sub. (8) of this section for requirements related to reporting suspected child abuse or neglect, and s. DCF 250.07(6)(b)2. for information on recording in the medical log book.

(7) CONFIDENTIALITY.

(a) The licensee is responsible for compliance by the center with s. 48.78, Stats., and this subsection.

(b) The licensee shall ensure that all of the following occur:

1. Persons having access to children's records do not discuss or disclose personal information regarding the children and facts learned about the children and their relatives. This subdivision does not apply to any of the following:

- a. The parent or person authorized in writing by the parent to receive the information.
 - b. Any agency assisting in planning for the child when informed written parental consent has been given.
 - c. Agencies authorized under s. 48.78, Stats.
2. A parent, upon request, has access to all records and reports maintained on his or her child.
3. All records required by the department under this chapter for licensing purposes are available to the licensing representative.

(8) REPORTING CHILD ABUSE.

(a) A licensee or provider who knows or has reasonable cause to suspect that a child has been abused or neglected as defined in ss. 48.02(1) and 48.981(1), Stats., shall immediately contact the county department of social services or human services or local law enforcement agency in compliance with s. 48.981, Stats.

(b) The licensee shall document that each provider and substitute has received training at least every 2 years in all of the following:

1. Child abuse and neglect laws.
2. How to identify children who have been abused or neglected.
3. The procedure for ensuring that all known or suspected cases of child abuse or neglect are immediately reported to the proper authorities.

Note: Failure of the licensee to report known or suspected child abuse or neglect does not lessen the legal duty of a child care employee to report known or suspected cases of child abuse or neglect. Information related to child abuse may be obtained from the Child Care Information Center by calling 1-800-362-7353.

Note: See sub. (6)(c) of this section for information about logging evidence of unusual bruises, contusions, lacerations or burns received by a child in or out of center care in the center medical log book.

250.05**DCF 250.05 Staffing.****(1) RESPONSIBILITIES AND QUALIFICATIONS OF STAFF.**

(a) *Minimum age and competence.* A family child care provider shall be physically, mentally and emotionally able to provide responsible care to all children, including children with disabilities, and shall be at least 18 years of age.

(b) *Training.*

1.a. A provider shall have satisfactorily completed 3 credits of broad-based early childhood training or a non-credit course in caring for children approved by the department before receiving a license or working with children.

Note: The non-credit course called *Introduction To The Child Care Profession* is the non-credit course in caring for children that has been approved by the department. Acceptable broad-based early childhood education courses taken for credit include child development, child psychology or introduction to early childhood education. Information on agencies offering department-approved courses is available on the department's website at <http://dcf.wisconsin.gov>.

b. A person licensed or beginning to work with children after January 1, 2009, shall have satisfactorily completed a non-credit course in operating a child care business approved by the department or its equivalent before becoming licensed or working with children.

Note: The non-credit course entitled *Fundamentals of Family Child Care* is the non-credit course in operating a child care business that has been approved by the department. Information on agencies offering the department-approved course is available on the department's website at <http://dcf.wisconsin.gov>.

2. If more than one provider is required to meet the staff-to-child ratios, each additional provider shall meet the training requirements as specified under this paragraph.

3. A substitute or volunteer used to meet staff-to-child ratios need not meet the training requirements specified in this section until the substitute or volunteer has worked in the center for 240 hours, except that the substitute or volunteer used to meet staff-to-child ratios shall complete department-approved training in shaken baby syndrome prevention before providing care and supervision to children under age 5.

4. A provider shall receive and document having received 15 hours of continuing education each year in child growth and development, early childhood education, caring for children with disabilities, or first aid as approved by the department. This training may include attendance at training events, workshops, conferences, consultation with community resource people or observation of child care programs. Up to 5 hours of independent reading or watching educational materials may be used to meet continuing education requirements.

Note: The licensee may use either the department's form, Staff Continuing Education Record-Child Care Centers, or the licensee's own form to document the completion of continuing education. Information on how to obtain the department's form is available on the department's website, <http://dcf.wisconsin.gov>, or from any regional licensing office in Appendix A.

5. A provider shall obtain within 6 months of licensure or date of hire and maintain a current certificate of completion for a department-approved course in infant and child cardiopulmonary resuscitation including training in the use of an automated external defibrillator. The time spent obtaining or renewing cardiopulmonary resuscitation training may be counted towards the required continuing education hours.

6. Within 6 months of becoming licensed or working in a center licensed to care for children under age 2, a provider shall have completed at least 10 hours of department-approved training in the care of infants and toddlers.

7. Before becoming licensed or providing care and supervision to children under age 5, a provider, substitute, volunteer, emergency back-up or any other person providing care and supervision to children in a family child care center shall have completed department-approved training in shaken baby syndrome prevention unless the person has documentation of completion of one of the non-credit, department-approved, entry-level courses that contain the required materials taken after July 1, 2005.

Note: *Introduction to the Child Care Profession* and *Fundamentals of Infant and Toddler Care* are the names of the non-credit, department-approved, entry-level courses that contain the required shaken baby syndrome prevention materials. Information on agencies offering the department-approved courses is available on the department's website at <http://dcf.wisconsin.gov>.

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(c) Volunteers. No person may offer child care training as specified in this section unless the person and the course have been approved by the department.

Note: Information on the approval process for non-credit courses is available on the department's website, <http://dcf.wisconsin.gov>.

(2) STAFF DEVELOPMENT.

(a) *Orientation of employees, volunteers and substitutes.* Each employee, volunteer, or substitute shall receive an orientation before beginning work. The orientation shall be documented on a form provided by the department and kept in the employee file. The orientation shall cover all of the following:

Note: See s. DCF 250.04(2)(f) relating to a written plan for orientation.

1. Names and ages of all the children in care.
2. Current arrival and departure information for each child enrolled including the names of people authorized to pick up the child.
3. A review of children's records including emergency contact information.
4. Specific information relating to children's special health care needs including medications, disabilities or special health conditions.
5. Procedures to reduce the risk of sudden infant death syndrome, if the center is licensed to care for children under one year of age.
6. An overview of the daily schedule including meals, snacks, nap and any information related to the eating and sleep schedules of infants and toddlers enrolled in the center.
7. A review of the center's procedures for dealing with emergencies.
8. The procedure for reporting suspected abuse and neglect of a child.
9. The plan for evacuating sleeping children, if the center is licensed to care for children between the hours of 9 PM and 5 AM.
10. The procedure to contact a parent if a child is absent from the center without prior notification of the absence from the parent.
11. Review of center policies required under s. DCF 250.04(2)(e).
12. Review of this chapter.
13. Review of s. DHS 12.07(1) which requires a provider to notify the licensee as soon as possible but no later than the provider's next working day when any of the following occurs:
 - a. The provider has been convicted of a crime.
 - b. The provider has been or is being investigated by any governmental agency for any other act, offense, or omission, including an investigation related to the abuse or neglect, or threat of abuse or neglect, to a child or other client, or an investigation related to misappropriation of a client's property.
 - c. The provider has a substantiated governmental finding against them for abuse or neglect of a child or adult or for misappropriation of a client's property.
 - d. A professional license held by a provider has been denied, revoked, restricted or otherwise limited.

Note: The department's form, Staff Orientation Checklist — Family Child Care Centers, is used to document completion of employee orientation. Information on how to obtain the form is available on the department's website, <http://dcf.wisconsin.gov>, or from any regional licensing office in Appendix A.

(b) *Orientation of emergency back-up providers.* Each time an emergency situation occurs, each emergency back-up provider shall receive an orientation immediately before being left alone with the children. The orientation shall cover all of the following:

Note: See s. DCF 250.04(2)(f) relating to a written plan for orientation.

1. Names and ages of all the children in care.
2. Arrival and departure information for each child in care including the names of people authorized to pick up the child.
3. Location of children's files including emergency contact information, consent for emergency medical treatment and any special health care needs.
4. Procedures to reduce the risk of sudden infant death syndrome, if the center is licensed to care for children under one year of age.

250.05(3)**(3) SUPERVISION.**

(a)1. A provider may not be engaged in any other activity or occupation during the hours of operation of the center, except for daily maintenance of the home.

2. The licensee may not combine the care of children enrolled in the child care center with foster care of other non-related children or adults without the prior written approval of both licensing agencies.

(b) A provider shall be awake whenever children are in care.

(c) No individual provider may take care of children for more than 12 hours in any 24-hour period.

(d) No child may be in care for more than 12 hours in any 24-hour period.

(e) Except when a substitute is providing care, at least one provider who has completed the training required under s. DCF 250.05(1)(b)1. shall supervise children at all times. Substitutes shall have completed the training in shaken baby syndrome prevention required under s. DCF 250.05(1)(b)7. before working as a substitute.

(f) No person under 18 years of age may be left in sole charge of the children.

(g) The center shall have a plan approved by the department for ensuring supervision of the children in an emergency or during a provider's absence.

(h) A provider and any other adult in contact with children may not consume beverages containing alcohol or any non-prescribed controlled substance specified in ch. 961, Stats., or be under the influence of any alcohol or a non-prescribed controlled substance, during the hours of the center's operation.

(i) Each child shall be closely supervised by a provider to guide the child's behavior and activities, prevent harm and assure safety.

(j) A provider shall be outside with children and provide sight and sound supervision of the children unless the children are playing inside the enclosed outdoor area on the premises, as specified under s. DCF 250.06(11)(b).

(k) A child may not be released to any person who has not been previously authorized by the parent to receive the child.

(L) The licensee shall implement a procedure to ensure that the number, names and whereabouts of children in care are known to the provider at all times.

(m) A provider shall be outside with children providing sight and sound supervision of the children when a wading pool with water in it is present in the outdoor play space specified in s. DCF 250.06(11)(b).

(4) STAFFING AND GROUPING.

(a) At no time may more than 8 children be in the care of the center. This total includes:

1. All children under 7 years of age, including a provider's own children.

2. All children 7 years of age or older who are not a provider's own children.

(b) The maximum number of children that one provider may care for is specified in Table 250.05.

(c) If the size of the group or the age distribution of the children exceeds the number that may be served by one provider, an additional qualified provider shall be present.

Note: For example, if there are 3 children under age 2 present at one time and 5 children between the ages of 2 years and 6 years present, a second provider is required. At no time may the maximum number of children in care exceed 8.

(d) Each provider may care for no more than 2 children under age 2 when care is provided on a level that is more than 6 feet above or below the ground level. A center may care for 3 or 4 children under age 2 when care is provided on a level that is more than 6 feet above or below the ground level only if there is more than one qualified provider.

250.05(4)(d)Note:

Note: Section DCF 250.06(4)(e) requires an interconnected smoke detection system in operating condition if one or more children under age 2 will be cared for on a level that is more than 6 feet above or below the ground level.

Table DCF 250.05**Maximum Number of Children in Family Child Care per Provider**

| Children Under 2 Years of Age | Children 2 Years of Age and Older | Maximum Number of Additional School-age Children In Care For Fewer Than 3 Hours a Day | Maximum Number of Children |
|-------------------------------|-----------------------------------|---|----------------------------|
| 0 | 8 | 0 | 8 |
| 1 | 7 | 0 | 8 |
| 2 | 5 | 1 | 8 |
| 3 | 2 | 3 | 8 |
| 4 | 0 | 2 | 6 |

250.06**DCF 250.06 Physical plant and equipment.****(1) BUILDING.**

(a) *Conformance with building codes.* Family child care centers located in a building that is not a one or 2-family dwelling shall conform to the applicable Wisconsin commercial building codes. A copy of a building inspection report evidencing compliance with the applicable building codes shall be submitted to the department prior to the department's issuance of a license.

Note: The building inspection report should be sent to the appropriate regional office listed in Appendix A.

(b) Space and temperature.

1. A center shall have at least 35 square feet of usable floor space per child. This space shall be exclusive of passageways, bathrooms, lockers, storage areas, the furnace room, that part of the kitchen occupied by stationary equipment, and space occupied by furniture that is not intended for children's use.

2. The inside temperature of the center may not be less than 67 degrees Fahrenheit.

3. If the inside temperature exceeds 80 degrees Fahrenheit, the licensee shall provide for air circulation with fans or other means if the center is not air conditioned.

(2) PROTECTIVE MEASURES.

(a) Furnaces, water heaters, steam radiators, fireplaces, wood burning stoves, electric fans, electric outlets, electric heating units and hot surfaces such as pipes shall be protected by screens or guards so that children cannot touch them.

(b) Firearms, ammunition or other potentially dangerous items located on the premises shall be kept in locked storage and may not be accessible to children.

(c) Materials harmful to children, including power tools, flammable or combustible materials, insecticides, matches, drugs and any articles labeled hazardous to children, shall be in properly marked containers and stored in areas inaccessible to children.

(d) The center shall have at least one working telephone with a list of emergency telephone numbers, including telephone numbers for the local rescue squad, fire department, police department, law enforcement agency, poison control center and emergency medical service, posted near each telephone.

(e) The center's indoor and outdoor child care space shall be free of hazards including any recalled products.

Note: Lists of recalled products are available on the Department of Agriculture, Trade and Consumer Protection website at <http://datcp.state.wi.us/core/consumerprotection/consumerprotection.jsp> or by contacting the United States Consumer Products Safety Commission (US CPSC) at 1-800-638-2772.

(f) A motor vehicle shall be immediately available at the center at all times in case of an emergency if an ambulance or first response unit cannot arrive within 10 minutes of a phone call.

(g) Differences of elevation, including open sides of stairways, elevated platforms, walks, balconies and mezzanines shall be protected by railings at least 36 inches high and designed to prevent the passage of an object with a diameter larger than 4 inches through any openings in the railing bars.

(h) Smoking is prohibited anywhere on the premises of a center when children are present.

Note: Section DCF 250.03(25) defines a "premise" as a building and the tract of land on which the building is located.

(i) A hot tub located in a room or area accessible to children shall have a visible, locked, rigid cover or be enclosed by a locked fence at least 4 feet tall. The lock shall be installed so that the lock is inaccessible to children.

(j) If a hot tub is located in a room or area that is not intended for use by children, access to the room or area shall be controlled through the use of a visibly locked door. The lock shall be installed so that the lock is inaccessible to children.

(k) The premises shall have no flaking or deteriorating paint on exterior or interior surfaces in areas accessible to children. Lead-based paint or other toxic finishing material may not be used on any surface on the premises.

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(3) EMERGENCIES. Each center shall have a written plan for taking appropriate action in the event of a fire or tornado, missing child or other emergency. The center shall practice the fire evacuation plan monthly and the tornado plan monthly from April through October with the children and document when the plans were practiced.

Note: The licensee may use either the department's form, Fire Safety and Emergency Response Documentation — Family Child Care Centers, or the licensee's own form to document when the fire and tornado emergency plans were practiced. Information on how to obtain the department's form is available on the department's website, <http://dcf.wisconsin.gov>, or from any regional licensing office in Appendix A.

(4) FIRE PROTECTION.

(a) Smoke detectors shall be installed and maintained in operating condition on each level of the center and in all areas used for nap or rest periods. All smoke detectors shall be tested monthly and a record kept of the time, date and results of the test.

Note: The licensee may use either the department's form, Fire Safety and Emergency Response Documentation — Family Child Care Centers, or the licensee's own form to record the results of smoke detector tests. Information on how to obtain the department's form is available on the department's website, <http://dcf.wisconsin.gov>, or from any regional licensing office in Appendix A.

(b) An operable fire extinguisher with a minimum rating of 2A-10BC shall be provided for the kitchen and cooking area and inspected annually, and a provider shall know how to use it. Inspection tags are not required, but documentation of the inspection must be kept on file at the center.

Note: Licensees or a commercial fire extinguisher inspector may inspect fire extinguishers.

(c) Unvented gas, oil or kerosene space heaters are prohibited.

(d) A woodburning stove may be used only if it meets standards specified under s. Comm 23.045.

(e) The center shall be equipped with an interconnected smoke detection system in operating condition if one or more children under age 2 will be cared for on a level that is more than 6 feet above or below the ground level.

(5) SANITATION. The premises, furnishings and equipment shall be free from litter and vermin and maintained in a sanitary condition and in good repair.

(6) WATER.

(a) If the center gets its water from a private well, water samples from the well shall be tested annually by a laboratory certified under ch. DHS 165 and shall be found bacteriologically safe. The laboratory report shall be available to the department upon request.

(b) If the center is licensed to care for infants under 6 months of age, the center shall have nitrate levels in the water tested annually by a laboratory certified under ch. DHS 165. Bottled water shall be used for infants under 6 months of age if the water tests above the maximum allowable levels of nitrates.

Note: Section NR 890.09 sets the maximum allowable level of nitrate-nitrogen in public drinking water at 10 milligrams per liter (10 parts per million).

(c) If water test results indicate the water is bacteriologically unsafe, the water shall be appropriately treated and re-tested until it is determined to be safe. Bottled water shall be used until the water is determined to be safe.

(7) EXITS, DOORS AND WINDOWS.**(a) Exits.**

1. All exits shall be clear of obstructions.
2. Each floor or level occupied by children shall have at least 2 exits.
3. Exits shall be located as far apart as practical.
4. The width of every exit door shall be at least 2 feet 6 inches.
5. The primary exit shall be a door or stairway providing unobstructed travel to the outside of the building at street or ground level.
6. The secondary exit shall be one of the following:
 - a. A door or stairway that provides unobstructed travel to the outside of the building at street or ground level.

250.06(7)(a)6.b.

b. A door or stairway leading to a platform or roof with railings complying with sub. (2)(g), which has an area of at least 25 square feet, is at least 4 feet long, and is not more than 15 feet above ground level.

c. Except in an upstairs duplex, a window that is not more than 46 inches above the floor, capable of being opened from the inside without the use of tool or removal of a sash, and which has a nominal window opening size of at least 20 inches in width and 24 inches in height. A center located in the upstairs unit of a duplex shall have 2 exits leading directly to the ground floor or to a platform as described in subd. 6. a. and b.

7. If care is provided in a basement, all of the following apply:

a. The primary exit shall be a door or stairway that provides unobstructed travel to the outside of the building at street or ground level.

b. The secondary exit shall be either a door or stairway leading to the ground level or a window not more than 46 inches above the floor that is capable of being opened from the inside without the use of tool or removal of a sash, and which has a nominal window opening size of at least 20 inches in width and 24 inches in height. The window shall open directly to the ground or to a window well with an area of at least 6 square feet that is not more than 46 inches below the ground.

(b) *Doors and windows.*

1. Every closet door latch shall be capable of being opened by children from inside the closet.

2. Every toilet room door lock shall be designed to permit the locked door be opened from the outside in an emergency, and the opening device shall be readily accessible to a provider.

3. Windows that are capable of being opened and located in areas of the center that are accessible to children shall have screens.

(8) FURNISHINGS.

(a) Furnishings shall be durable and safe, with no sharp, rough, loose or pointed edges.

(b) The furnishings shall include all of the following:

1. Table space and seating for each child.

2. Storage space for equipment, cots, if used, bedding, children's clothing and personal belongings.

3. A safe, washable cot, bed, 2-inch thick mat or sleeping bag for each child one year of age or older who naps or sleeps.

4. A safe, washable crib or playpen for each child under one year of age who naps or sleeps.

Note: See Appendix D for information related to safe cribs.

(9) KITCHENS.

(a) Equipment and utensils for preparing, serving and storing food shall be clean and equipped for the safe handling of food. Eating surfaces shall be washed before use.

(b) Reusable eating and drinking utensils shall be thoroughly cleaned with detergent and hot water and rinsed after use. Single use articles such as food containers designed to be used only once and discarded including plastic silverware, paper or styrofoam cups and plates may not be reused.

(c) Food shall be clean, wholesome, free from spoilage and from adulteration and misbranding, and safe for human consumption.

(d) Food shall be covered and stored at temperatures that protect against spoilage. Refrigerators shall be maintained at 40 degrees Fahrenheit or lower and freezers shall be maintained at 0 degrees Fahrenheit or lower.

(e) Leftovers shall be discarded after 36 hours unless frozen for later use.

(10) WASHROOMS AND TOILET FACILITIES.

(a) There shall be at least one toilet with plumbing and one sink with hot and cold running water available for use by the children.

(b) Soap, toilet paper and a waste paper container shall be provided in the washroom and accessible to children.

(11) OUTDOOR SPACE.

(a) *Requirement for outdoor play space.* A center shall have outdoor play space if any child is receiving care for more than 3 hours a day.

(b) *Required features of outdoor play space.* Except when an exemption is requested and approved by the department under par. (c), a center shall comply with all of the following requirements for outdoor play space:

1. The outdoor play space shall be on the premises of the center.
2. There shall be at least 75 square feet of outdoor play space for each child using the space at a given time. A center with a licensed capacity of 8 children is required to have a minimum of 600 square feet.
3. The outdoor play space shall be well-drained and shall be free of hazards. Structures such as playground equipment, railings, decks and porches accessible to children and built with CCA-treated lumber shall be sealed with an oil-based sealant or stain. Wood treated with creosote, including railroad ties, may not be used in areas accessible to children.
4. A permanent enclosure not less than 4 feet high shall be provided to protect the safety of children in care. Fencing, plants or landscaping may be used to create a permanent enclosure. Programs licensed prior to January 1, 2009, have until January 1, 2010, to install a permanent enclosure.
5. Concrete and asphalt are prohibited under climbing equipment, swings and slides.

(c) *Exemption for off-premises play space.*

1. In this paragraph, “main thoroughfare” means a heavily traveled street or road used by vehicles as a principal route of travel.

2. If a center has no outdoor play space available on the premises of the center, the licensee may request an exemption from the requirements under subd. 3. for the center’s outdoor play space.

3. A request for an exemption under subd. 2. shall be in writing and shall be accompanied by a plan for outdoor play space that does all the following:

- a. Identifies and describes the location to be used, the travel distance from the center to that location and the means of transporting the children to that location.
- b. Provides for adequate supervision of the children as specified in Table 250.05.
- c. Provides for daily vigorous exercise in the out-of-doors for the children.
- d. Describes the arrangements to meet the toileting and diapering needs of the children.
- e. Affirms the center’s compliance with the requirements included in subds. 4. to 7.

Note: Send the request for an exemption, including the plan for the use of that space, to the licensing representative at the appropriate regional office of the Department’s Division of Early Care and Education. See Appendix A for addresses of the regional offices.

4. The off-premises outdoor play space shall be free of hazards such as bodies of water, railroad tracks, unfenced swimming pools, heavily wooded areas and nearby highways and main thoroughfares.

5. There shall be at least 75 square feet of play space for each child using the space at a given time.

6. No climbing equipment, swing or slide in the play space may have concrete or asphalt under it.

7. When the off-premises outdoor play space is reached by walking, the center shall transport children under 3 years of age in wheeled vehicles, such as strollers or wagons, with a seating capacity equal to the number of children under 3 years of age to be transported.

8. A center’s plan for use of an off-premises outdoor play space is subject to approval by the department. Within 30 days after receipt of a plan and request for an exemption from the requirements under par. (b), the department shall either approve the plan and grant the exemption or not approve the plan and deny the request for exemption. The department shall notify the center in writing of its decision and if it does not grant an exemption, shall state its reasons for not granting the exemption.

250.06(11)(c)9.

9. If any circumstance described in an approved plan for use of off-premises outdoor play space changes or if any condition for plan approval is not met, the department may withdraw its approval of the plan and cancel the exemption. A center with an approved plan shall immediately report to the department's licensing representative any significant change in any circumstance described in the plan.

(12) SWIMMING AREAS.

(a) Swimming pools on the premises of the center may not be used by children in care. Swimming pools on the premises shall be surrounded by a permanent enclosure as specified under sub. (11)(b)4. In addition, the all of the following restrictions apply:

1. If access to the pool is through a gate, the gate shall be closed and locked during the center's hours of operation.

2. If access to the pool is through a door, the door shall be closed, visibly locked and equipped with an alarm at the door that signals when someone has entered the pool area. The door may not be used as an exit.

3. Locks shall be located so that the locks cannot be opened by the children.

4. The free-standing wall of an above ground pool may not serve as an enclosure unless it is at least 4 feet in height and not climbable. If a ladder is present, the ladder shall be removed or raised up so that it is inaccessible to children.

5. The area around the pool enclosure shall be free of toys or equipment that would allow a child to climb or otherwise gain access to the pool.

(b) A wading pool on the premises may be used if the water is changed daily and the pool is disinfected daily. Supervision requirements and staff-to-child ratios under s. DCF 250.05(3) and (4) shall be met.

(c) A pool, wading pool, water attraction, or beach that is not located on center premises may be used by children if all of the following conditions are met:

1. The construction and operation of the pool meet the requirements of chs. Comm 90 and DHS 172 for public swimming pools and the beach complies with any applicable local ordinance.

2. Certified lifesaving personnel are on duty.

3. While children are in the water of a pool, wading pool, water attraction, or beach, the following staff-to-child ratios for providers who can swim shall be met:

a. For children under 2 years of age: 1:1.

b. For children 2 and 3 years of age: 1:3.

c. For children 4 and 5 years of age: 1:6.

d. For children 6 years of age and older: 1:8.

4. When a mixed age group of children are swimming, the staff-to-child ratio shall be adjusted based on to the number of children in the water and each child's age.

Note: A worksheet to help calculate the staff to child ratio for mixed aged groupings during swimming is available from the department upon request. Requests may be made to the licensing representative or regional office in Appendix A.

5. A child shall be restricted to the area of the pool or beach that is within the child's swimming ability.

6. If some of the children are in the water and others are not, there shall be at least 2 providers supervising the children. One provider shall supervise the children who are in the water, and the other provider shall supervise the children who are not in the water.

DCF 250.07 Program.**(1) PROGRAM PLANNING AND SCHEDULING.**

(a) A provider shall plan activities so that each child may be or do all of the following:

1. Be successful and feel good about himself or herself.
2. Use and develop language.
3. Use large and small muscles.
4. Use materials and take part in activities that encourage creativity.
5. Learn new ideas and skills.
6. Participate in imaginative play.
7. Be exposed to a variety of cultures.
8. Develop literacy skills.

Note: The Wisconsin Model Early Learning Standards are voluntary standards that were designed to help centers develop programs and curriculum to help ensure that children are exposed to activities and opportunities that will prepare them for success in school and into the future. The Standards are primarily intended as guidance on developmentally appropriate expectations and are not intended to be used as a checklist to gauge a child's progress. The Standards are based on scientific research. Copies of the Wisconsin Model Early Learning Standards are available on the Wisconsin Early Childhood Collaborating Partners website at <http://www.collaboratingpartners.com/> or through the Child Care Information Center at 1-800-362-7353.

Wisconsin has an information and referral service for persons with questions or concerns about a child's development called First Step that is available to the public 24 hours a day, 7 days a week. When a call is placed to First Step at 1-800-642-7837, the caller will learn about early intervention services as well as other related services in the area. When a provider or a parent has concerns about a child's growth or development a referral to a Birth-to-Three agency or the local public school should be considered to determine if the child is eligible for special services. With parental consent and consultation, it is recommended that centers who care for children who have an Individualized Family Service Plan (IFSP) or an Individualized Education Program (IEP) coordinate programming activities with the local school district or Birth to Three agency.

(b) A provider shall plan daily activities according to the age and developmental level of each child in care and shall include a flexible balance of all of the following:

1. Daily indoor and outdoor activities when a child is in care for more than 3 hours except that outdoor activities are not required during inclement weather or when not advisable for health reasons.
2. Active and quiet play.
3. Protection from excess fatigue and over stimulation.
4. Individual and group activities.

(c) Television, including videotapes and DVDs, may be used only to supplement the daily plan for children. No child may be required to watch television.

(2) CHILD GUIDANCE.

(a) Each family child care center shall provide positive guidance and redirection for the children and shall set clearly specified limits for the children. A provider shall help each child develop self-control, self-esteem and respect for the rights of others.

(b) If a provider uses time-out periods to deal with unacceptable behavior, time-out periods may not exceed 5 minutes or be used for children under age 3. Time-out procedures shall be included in the center's written child guidance policy.

(c) Actions that may be psychologically, emotionally or physically painful, discomforting, dangerous or potentially injurious are prohibited. Examples of prohibited actions include all of the following:

1. Spanking, hitting, pinching, shaking, slapping, twisting, throwing, or inflicting any other form of corporal punishment on the child.
2. Verbal abuse, threats or derogatory remarks about the child or the child's family.
3. Physical restraint, binding or tying the child to restrict the child's movement or enclosing the child in a confined space such as a closet, locked room, box or similar cubicle.
4. Withholding or forcing meals, snacks or naps.
5. Actions that are cruel, aversive, humiliating or frightening to the child.

(d) A child may not be punished for lapses in toilet training.

Note: See s. DCF 250.04(8) for information on reporting suspected child abuse and s. DCF 250.04(3)(i) for rules requiring that inappropriate discipline of a child be reported to the Department within 24 hours after the occurrence.

250.07(3)**(3) EQUIPMENT.**

(a) Safe indoor and outdoor play equipment shall be provided and shall be all of the following:

1. Scaled to the size and developmental level of the children.
2. Of sturdy construction with no sharp, rough, loose, or pointed edges, in good operating condition, and anchored when necessary.

3. Placed so as to avoid danger of accident or collision and to permit freedom of action.

(b) Various types of play equipment shall be provided to allow for large and small muscle activity, dramatic play, creative expression and intellectual stimulation.

(c) Indoor play equipment shall be provided to allow each child a choice of at least 3 activities involving equipment when all children are involved in using equipment.

(d) Outdoor play equipment shall be provided to allow each child at least one activity when all children are using equipment at the same time.

(e) Trampolines and inflatable bounce surfaces on the premises shall not be in areas accessible to children and may not be used by the children in care.

Note: Lists suggesting kinds and numbers of equipment for centers are available from the Child Care Information Center by calling 1-800-362-7353.

(4) REST PERIODS.

(a) Children under 5 years of age in care for more than 4 consecutive hours shall have a nap or rest period.

(b) A provider shall permit children who do not sleep after 30 minutes and children who wake up early to get up and shall help them to have a quiet time through the use of equipment or activities which do not disturb other children.

(c) Each child who has a nap or rest period shall be provided with a bed, cot, mat at least 2 inches thick, sleeping bag, crib or playpen which is placed at least 2 feet from the next sleeping child.

(d) Each child shall be provided with an individually identified sheet and blanket or sleeping bag that may be used only by that child until it is washed. Sleeping bags and bedding shall be stored in a sanitary manner and washed at least after every 5 uses or as soon as possible if wet or soiled.

(e) Infants shall sleep alone in cribs or playpens. Two related children may share a double bed. No more than one child may occupy a single size bed, cot, mat or sleeping bag.

Note: See also s. DCF 250.06(8)(b)3. and 4. which require that the cot, bed, mat, sleeping bag, crib or playpen be safe and washable.

(5) MEALS AND SNACKS.

(a) Food shall be provided based on the amount of time children are present, as specified in Table 250.07.

TABLE 250.07
Meals and Snacks to be Served to Children
in Family Child Care Centers

| Time Present | Number of Meals and Snacks |
|-----------------------------------|-----------------------------------|
| At least 2½ but less than 4 hours | 1 snack |
| At least 4 but less than 8 hours | 1 snack and 1 meal |
| At least 8 but less than 10 hours | 2 snacks and 1 meal |
| 10 or more hours | 2 meals and 2 or 3 snacks |

(b) Food shall be served at flexible intervals, but no child may go without nourishment for longer than 3 hours.

(c) Each meal and snack shall meet the U.S. department of agriculture child and adult care food program minimum meal requirements.

Note: See Appendices B and C for United States Department of Agriculture child and adult care food program minimum meal requirements. You may also contact the Department of Public Instruction Community Nutrition Services for information on the United States Department of Agriculture child and adult care food program at 608-267-9123.

250.07(5)(d)

(d) Accurate records of meals and snacks served to children shall be available for review by parents and the licensing representative. Written records of meals and snacks served to children must be kept for 3 months.

(e) Enough food shall be prepared for each meal so second portions of vegetables, fruit, bread and milk are available to children.

(f) When food for a child is provided by the child's parent, the licensee shall give the parents information about the requirements for food groups and quantities specified by the U.S. department of agriculture child and adult care food program minimum meal requirements.

(g) A child enrolled in school who is in attendance at the center when a meal or snack is served shall be offered the meal or snack.

(h) A special diet based on a medical condition, excluding food allergies, but including nutrient concentrates and supplements, may be served only upon written authorization of a child's physician and upon the request of the parent.

(i) A special diet based on a food allergy may be served upon the written request of the parent.

(6) HEALTH.**(a) *Contact with others who are ill.***

1. A licensee, provider, household member, employee, volunteer, visitor or parent who has symptoms of illness or of a communicable disease that may be transmitted through normal contact may not be in contact with the children in care.

2.a. A licensee, provider, household member, employee, volunteer, visitor or parent whose behavior with respect to any child, adult, animal or property, on or off the center's premises, raises reasonable concern for the safety of the children, may not be in contact with the children in care.

b. The department may require a licensee, provider, household member or other adult in contact with the children whose behavior gives reasonable concern for the safety of children to submit to an examination by a licensed mental health professional as a condition of licensure or employment.

Note: See also s. DCF 250.11(2)(e) which requires a written statement from a physician or licensed mental health professional when there is reason to believe that the physical and mental health of a person may endanger children in care.

3. No person with a health history of typhoid, paratyphoid, dysentery or other diarrheal disease may work in a center until it is determined by appropriate medical tests that the person is not a carrier of the disease.

(b) *Observation of children.*

1. Each child upon arrival at the center shall be observed for symptoms of illness. For a child who appears to be ill, the licensee shall follow the procedure under par. (c).

2. A provider shall note in a medical log book any injury or evidence of unusual bruises, contusions, lacerations or burns received by a child in or out of the center and any incidents requiring the services of medical personnel.

Note: See s. DCF 250.04(6)(c) for information on maintaining a medical log book.

(c) *Ill child.* Unless a center has been previously authorized to care for mildly ill children under par. (d), any child who appears to be ill shall be moved to a separate room or area and shall be provided with a bed, crib or cot and a sheet and blanket or sleeping bag. The licensee shall notify the parent or emergency contact and arrange to remove the child from the center as soon as possible.

(d) *Care of a mildly ill child.* A child who is mildly ill may be cared for at the center when all of the following conditions are met:

1. The space for the care of a mildly ill child is a self-contained room that is separate from children who are well.

2. The parent consents in writing.

3. The written health policy of the center allows a mildly ill child to remain at the center.

4. The center follows and implements procedures in a written plan for the provision of care to mildly ill children that has been approved and signed by a licensed physician, a family nurse practitioner or a pediatric nurse practitioner, and which covers all of the following:

a. Admissions and exclusions.

b. Staffing.

c. Staff training.

250.07(6)(d)4.d.

- d. Monitoring and evaluation.
- e. Programming.
- f. Infectious disease control.
- g. Emergency procedures.

5. Medical consultation is available from a physician or local health department in establishing policy for the management of mildly ill children.

(e) Communicable disease.

1. When it is determined that a person in contact with children or a child attending the center has a reportable communicable disease under ch. DHS 145, such as German measles, infectious hepatitis, measles, mumps, or meningitis, the local public health officer, the department and parents of all the enrolled children shall be notified.

2. A licensee, provider, household member, employee, volunteer, visitor or parent or a child in care may be readmitted to the family child care center if there is a written statement from a physician that the condition is no longer contagious or if the person has been absent for a period of time equal to the longest usual incubation period for the disease as specified by the department in ch. DHS 145.

Note: The Wisconsin Department of Health Services, Division of Public Health, has developed materials that identify those communicable diseases that are required to be reported to the local public health officer. These materials also provide additional guidance on the symptoms of each disease and information on how long an infected child shall be excluded from the center. The materials include a communicable disease chart and exclusion guidelines for child care centers. Copies of the communicable disease chart or the exclusion guidelines for child care centers are available from the Child Care Information Center 800-362-7353.

(f) Medications.

1. A provider may give prescription or non-prescription medications such as pain relievers, teething gels or cough syrup to a child only under the following conditions:

a. A completed written authorization on a form provided by the department, dated and signed by the parent is on file. Authorizations that exceed the period of time specified on the label are prohibited.

Note: The department's form, Authorization to Administer Medication — Child Care Centers, is used to obtain the parent's authorization to provide medications. Information on how to obtain the form is available on the department's website, <http://dcf.wisconsin.gov>, or from any regional licensing office in Appendix A.

b. The medication is in the original container and labeled with the child's name and with dosage and administration directions.

c. A written record, including the name of the child, type of medication given, dosage, time, date and the initials or signature of the person administering the medication shall be made in the medical log on the same day that the medication is administered.

Note: See s. DCF 250.04(6)(c) about maintaining a medical log book.

2.a. Sunscreen and insect repellent may only be applied upon the written authorization of the parent. The authorization shall include the brand and ingredient strength of the sunscreen or insect repellent. If parents provide the sunscreen or insect repellent, the sunscreen or repellent shall be labeled with the child's name. Authorizations shall be reviewed periodically and updated as necessary. The recording of the application of sunscreen or insect repellent is not required.

b. Children shall be protected from sunburn with protective clothing, if not protected by sunscreen.

3. Medications shall be stored so that they are not accessible to children.

4. Medications requiring refrigeration shall be kept in the refrigerator in a separate, covered container clearly labeled "medications."

5. No medication intended for use by a child in the care of the center may be kept at the center without a current medication administration authorization from the parent.

6. Medication for a child in care shall be administered by the center as directed on the label and as authorized by the parent.

(g) Personal cleanliness.

1.a. A child's hands shall be washed with soap and warm running water before meals or snacks and after toileting or diapering. A child's hands and face shall be washed after meals. Persons working with children shall wash their hands with soap and warm running water before handling food and after assisting with toileting. Towels and washcloths shall be individual to each person and used only once.

250.07(6)(g)1.b.

b. If running water is not immediately available when outdoors or on field trips, soap and water-based wet wipes may be used. When running water becomes available, hands shall be washed immediately with soap and running water.

c. Disinfecting hand sanitizers may not replace the use of soap and water for washing hands.

2. Bodily secretions from a child shall be wiped with a disposable tissue. Whoever does the wiping shall wash his or her hands immediately.

3. All providers shall use universal precautions when exposed to blood or bodily fluids or discharges containing blood.

4. All persons exposed to blood or bodily fluids containing blood or other types of bodily discharges shall wash their hands immediately with soap and warm running water.

5. Single use disposable gloves shall be worn if there is contact with blood-containing body fluids or tissue discharges. Hands shall be washed with soap and warm water after removal of gloves. Gloves shall be discarded in plastic bags.

(h) *Disinfecting surfaces.* Surfaces containing bodily secretions shall be washed with soap and water and disinfected with a solution of one tablespoon bleach to one quart of water, made fresh daily, or a quaternary ammonia-based disinfectant prepared according to the label instructions, or a commercially prepared disinfectant containing bleach or a quaternary ammonia product. Hands shall be washed immediately.

(i) *Prohibition against sharing utensils.* Cups, eating utensils, or toothbrushes may not be shared.

(j) *Clothing and diaper changing.*

1. Wet or soiled clothing or diapers shall be changed promptly from an available supply of clean clothing or diapers.

2. Section DCF 250.09(4) shall apply when a child 2 years of age or older needs attention for diapering or toileting.

(k) *Injuries.*

1. Written permission from the parent to call the child's physician or refer the child for medical care in case of injury shall be on file at the center. A provider shall contact a parent of the injured child as soon as possible after an emergency has occurred or, if the injury is minor, when the child is picked up.

Note: See DCF 250.04(3)(a) regarding reporting injuries that require medical attention to the Department within 48 hours after the occurrence.

Note: The department's form, Child Care Enrollment, includes authorization for the center to obtain emergency medical care for a child. Information on how to obtain forms is available on the department's website, <http://dcf.wisconsin.gov>, or from any regional licensing office in Appendix A.

2. Superficial wounds shall be cleaned with soap and water only and protected with a bandaid or bandage.

3. Suspected poisoning shall be treated only after consultation with a poison control center.

4. The licensee shall designate a planned source of emergency medical care, such as a hospital emergency room, clinic or other constantly staffed facility and shall advise parents about that designation.

5. A daily record of injuries including the child's name, date and time of injury and a brief description of the facts surrounding the injury shall be kept in the center medical log book.

Note: See s. DCF 250.04(6)(c) about maintaining a medical log book.

(L) *Health examination and history.*

1. Each child under 2 years of age, including each provider's child in care, shall have an initial health examination not more than 6 months prior to nor later than 3 months after being admitted to the center, and a follow-up examination at least once every 6 months thereafter.

2. Each child 2 years of age or older, including a provider's own children in care, shall have an initial health examination not more than one year prior to nor later than 3 months after being admitted to a center, and a follow-up health examination at least once every 2 years thereafter. School-age children are not required to have a health exam.

3. The health examination report shall be on a form provided by the department and shall be signed and dated by a licensed physician, physician assistant or a HealthCheck provider.

250.07(6)(L)3.Note:

Note: The department's form, Child Health Report — Child Care Centers, is used to record health examination information. Information on how to obtain the form is available on the department's website, <http://dcf.wisconsin.gov>, or from any regional licensing office in Appendix A.

4. The health examination requirement under subd. 2. does not apply if the parents of a child request in writing that the department grant an exemption based upon the parents' adherence to religious belief in exclusive use of prayer or spiritual means for healing in accordance with the teachings of a bona fide religious sect or denomination.

5. A health history for each child, including school age children and a provider's own children, completed by the parent shall be on file at the center by the child's first day of attendance. Information relating to a child's special health care needs shall be shared with any person caring for children including emergency back-up providers and substitutes. The health history shall be recorded on a form provided by the department.

Note: The department's form, Health History and Emergency Care Plan, is used to record each child's health history. Information on how to obtain the form is available on the department's website, <http://dcf.wisconsin.gov>, or from any regional licensing office in Appendix A.

(m) *Immunization.* The center shall maintain a record of immunizations for each child to document compliance with s. 252.04, Stats., and ch. DHS 144.

Note: The department of health services form, Day Care Immunization Record, is used to record immunization information. An electronic printout from the Wisconsin Immunization Registry, or other registry maintained by a health provider may be used in place of DPH-4192 or DPH-4192S. Information on how to obtain the form is available on the department's website, <http://dcf.wisconsin.gov>, or from any regional licensing office in Appendix A.

(7) PETS AND ANIMALS.

(a) Animals shall be maintained in good health and appropriately immunized against rabies. Rabies vaccinations shall be documented with a current certificate from a veterinarian.

(b) Animals that pose any risk to the children shall be restricted from the indoor and outdoor areas used by children.

(c) Licensees shall ensure that parents are aware of the presence of pets and animals in the center. If pets and animals are allowed to roam in areas of the center occupied by children, written acknowledgement from the parents shall be obtained. If pets are added after a child is enrolled, parents shall be notified in writing prior to the pets' addition to the center.

(d) Reptiles, amphibians, ferrets, poisonous animals, psittacine birds, exotic and wild animals may not be accessible to children.

Note: Psittacine birds are hooked bill birds of the parrot family that have 2 toes forward and 2 toes backward, including macaws, grays, cockatoos and lovebirds.

(e) All contact between pets or animals and children shall be under the sight and sound supervision of a provider who is close enough to remove the child immediately if the pet or animal shows signs of distress or aggression or the child shows signs of treating the animal inappropriately.

(f) Pets are prohibited in any food preparation or serving area when food is being prepared or served unless the pet is confined in a cage or kennel. Litter boxes are prohibited in any food preparation, storage or serving areas. Litter boxes and animal feeding dishes, excluding water dishes, may not be placed in areas accessible to children.

(g) Indoor and outdoor areas accessible to children shall be free of pet and animal excrement.

(h) Proof of liability insurance on the child care business indicating the number of children covered and the dates of coverage from an insurance carrier specifically covering the presence of dogs and cats shall be on file with the pertinent regional licensing office in appendix A if dogs or cats are allowed in areas of the center accessible to children.

Note: Documentation could be included as a rider on a homeowner policy or a separate insurance policy on the child care business. A certificate of insurance or other documentation from the insurance company that indicates the number of children covered, dates of coverage and types of pets covered is acceptable. Service animals used to assist persons with disabilities are not considered pets when functioning as a service animal.

(i) Licensees shall ensure that the center is in compliance with all applicable local ordinances regarding the number, types and health status of pets and animals.

DCF 250.08 Transportation.

(1) APPLICABILITY. This subsection applies to all center-provided transportation of children in care, including both regularly scheduled transportation to and from the center and field trip transportation.

Note: The department's form, Transportation Permission — Child Care Centers, may be used to obtain parental consent for transportation when regularly scheduled transportation between the center and the child's residence or other location is provided. Information on how to obtain a copy of the department form is available on the department's website, <http://dcf.wisconsin.gov>, or from any regional licensing office in Appendix A.

(2) EMERGENCY INFORMATION. All of the following emergency information shall be carried in the vehicle for each child transported:

(a) An address and telephone number where a parent or other adult can be reached in an emergency.

(b) The name, address and telephone number of the child's health care provider.

(c) Written consent from the child's parent for emergency medical treatment.

Note: The licensee must use the department's form, Child Care Enrollment, to obtain consent of the child's parent for emergency medical treatment. Information on how to obtain the department's form is available on the department's website, <http://dcf.wisconsin.gov>, or from any regional licensing office in Appendix A.

(3) DRIVER.

(a) The driver of a vehicle used to transport children in care shall be at least 18 years of age and shall hold a valid Wisconsin operator's license for the type of vehicle driven.

(b) The licensee shall obtain a copy of the driving record for each driver annually and place the record in the staff file. The licensee shall review each driving record to ensure that the driver has no accidents or traffic violations that would indicate that having children ride with the driver could pose a threat to the children.

(c) A driver whose driving record poses a threat to the children may not transport children.

Note: Information on how to obtain driving records may be obtained by contacting the Department of Transportation at (608) 261-2566 or <http://dot.wisconsin.gov/drivers/drivers/point/abstract.htm>.

(4) VEHICLE.

(a) The licensee shall ensure that each vehicle, including a licensed contract motor carrier vehicle, such as a hired school bus, that is used to transport children is all of the following:

1. Registered with the Wisconsin department of transportation.
2. Clean, uncluttered and free of obstruction on the floors, aisles and seats.
3. Enclosed. Children may not be transported in a truck except in the cab.
4. In safe operating condition.

(b) At 12-month intervals the licensee shall provide the department with evidence of a vehicle's safe operating condition on a form provided by the department.

Note: The department's form, Vehicle Safety Inspection, is used to record evidence of the vehicle's safe operating condition. Information on how to obtain a copy of the department's form is available on the department's website, <http://dcf.wisconsin.gov>, or from any regional licensing office in Appendix A.

(c) Hired or contracted school buses used to transport children shall be in compliance with ch. Trans 300.

(5) SEAT BELTS.

(a) Each child who is less than 1 year of age or who weighs less than 20 pounds being transported in a vehicle shall be properly seated and restrained in a rear-facing individual child car safety seat when being transported in a vehicle as specified in s. 347.48, Stats.

(b) Each child who is at least one year old but less than 4 years of age or who weighs at least 20 pounds but less than 40 pounds shall be properly restrained in a forward-facing individual child car safety seat when being transported in a vehicle as specified in s. 347.48, Stats.

250.08(5)(c)

(c) Each child who is at least 4 years old but less than 8 years of age, who weighs less than 80 pounds or who is 4 feet 9 inches tall or less shall be properly restrained in a shoulder-positioning child booster seat when being transported in a vehicle as specified in s. 347.48, Stats.

(d) Each child who is not required to be in an individual child car safety seat or booster seat required under par. (a), (b) or (c) when being transported shall be properly restrained by a seat belt. Each adult in the vehicle shall be properly restrained by a seat belt. Seat belts may not be shared.

(e) Children transported in school buses or vehicles built to school bus standards shall be properly seated according to the manufacturer's specifications.

(6) VEHICLE CAPACITY AND SUPERVISION.

(a) Children may not be left unattended in a vehicle.

(b) Children under age 13 years who are in the care of the center may not ride in the front seat of a vehicle.

(c) When children are transported in a vehicle, there shall be at least one adult supervisor in addition to the driver whenever there are more than 3 children who are either under 2 years of age or who have a handicap which limits their ability to respond to an emergency.

(d) After transporting a child to his or her destination, an adult shall ensure the child is in the custody of a provider, a parent, or other adult designated by the parent. A parent of a school age child may authorize a child to enter a building unescorted.

Note: Form, Transportation Permission — Child Care Centers, may be used to designate an adult to receive a child being transported. Information on how to obtain a copy of this form is available on the department's website, <http://dcf.wisconsin.gov>, or from any regional licensing office in Appendix A.

(e) The licensee shall develop and implement a procedure to ensure that all children exit the vehicle after being transported to a destination.

(7) SMOKING. Smoking is prohibited in the vehicle while children are being transported.

DCF 250.09 Additional requirements for infant and toddler care.**(1) APPLICABILITY, QUALIFICATIONS AND GENERAL REQUIREMENTS.**

(a) Family child care centers providing care and supervision to infants and toddlers shall comply with the additional requirements of this section.

(c) *General requirements.*

1. A provider shall use information obtained on a department-provided form for children under 2 years of age to individualize the program of care for each child. The information shall be at the center before the child is left for care on the child's first day of attendance. A provider and the child's parents shall periodically discuss the child's development and routines.

Note: The department's form, Intake for Children under 2 Years, is used to record information for individualizing the program of care for each child. Information on how to obtain the form is available on the department's website, <http://dcf.wisconsin.gov>, or from any regional licensing office in Appendix A. Wisconsin has an information and referral service for persons with questions or concerns about a child's development called First Step that is available to the public 24 hours a day, 7 days a week. When a call is placed to First Step at 1-800-642-7837, the caller will learn about early intervention services as well as other related services in the area. When a provider or a parent has concerns about a child's growth or development a referral to a Birth-to-Three agency should be considered to determine if the child is eligible for special services. With parental consent and consultation, it is recommended that centers who care for children who have an Individualized Family Service Plan (IFSP) coordinate programming activities with the local Birth-to-Three agency.

2. Cribs and playpens shall contain a tight fitting mattress and any mattress covering shall fit snugly over the mattress. Waterbeds may not be used by children under age 2.

3. Sheets or blankets used to cover the child shall be tucked tightly under the mattress and shall be kept away from the child's mouth and nose.

4. Children under one year of age may not sleep in a crib or playpen that contains soft materials such as sheepskins, pillows, fluffy blankets, bumper pads or stuffed animals.

5. Safety gates shall be used at open stairways when children are awake.

(2) DAILY PROGRAM.

(a) Child care providers shall respond promptly to a crying child's needs.

(b) Each infant and toddler shall be allowed to form and follow his or her own patterns of sleeping and waking.

(c) Each child under one year of age shall be placed to sleep on his or her back in a crib unless otherwise specified in writing by the child's physician. The child shall be allowed to assume the position most comfortable to him or her when able to roll over unassisted.

(d) Emphasis in activities shall be given to play as a learning and growth experience.

(e) Throughout the day, each infant and toddler shall receive physical contact and attention such as being held, rocked, talked to, sung to and taken on walks inside and outside the center.

(f) Routines related to activities such as taking a nap, eating, diapering and toileting shall be used as occasions for language development and other learning experiences.

(g) When a non-mobile child is awake, a provider shall change the child's body position and location in the room periodically. Non-mobile awake children shall be placed on their stomach occasionally throughout the day.

(h) Each non-walking child who can creep or crawl shall be given opportunities each day to move freely in a safe, clean, open, warm and uncluttered area.

(i) A provider shall encourage infants and toddlers to play with a wide variety of safe toys and objects.

(j) Infants and toddlers shall be taken outdoors for part of each day except during inclement weather or when this is not advisable for health reasons.

(3) FEEDING. A provider shall do all of the following:

(a) Feed each infant and toddler on the child's own feeding schedule.

(b) Ensure that food and formula brought from home is labeled with the child's name and dated, and is refrigerated if required.

(c) Ensure that formula provided by the center is of the commercial, iron-fortified type and mixed according to the manufacturer's directions.

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- (d) Provide formula or breast milk to all children under 12 months of age.
- (e) Provide another type of milk or milk substitute only on the written direction of the child's physician.
- (f) Discard leftover milk or formula after each feeding, and rinse bottles after use.
- (g) Refrain from heating breast milk in a microwave oven.
- (h) Offer drinking water to infants over 6 months of age and toddlers several times daily.
- (i) Hold a child unable to hold a bottle whenever a bottle is given. Bottles may not be propped.
- (j) Hold or place a child too young to sit in a highchair or feeding table in an infant seat during feeding. Wide-based highchairs with safety straps or feeding tables with safety straps shall be provided for children who are not developmentally able to sit at tables and chairs.
- (k) Ensure that eating utensils and cups are scaled to the size and developmental level of the children.

(4) DIAPERING AND TOILETING. A provider shall do all of the following:

- (a) Change wet or soiled diapers and clothing promptly.
- (b) Change the child on an easily cleanable surface which is cleaned with soap and water and a disinfectant solution after each use with a chlorine bleach solution of one quart water to one tablespoon bleach, made fresh daily or a product containing quaternary ammonia prepared according to the label directions or a commercially prepared disinfectant that contains bleach or quaternary ammonia.

Note: A quaternary ammonia product is any of a group of compounds in which a central nitrogen atom is joined to four organic radicals and one acid radical, used as antiseptics and disinfectants. Benzalkonium chloride, dimethyl benzyl ammonium chloride, and dodecyl dimethyl ammonium chloride are the names of some common ammonium compounds that might identify a product as a quaternary ammonium product. The chemical name for bleach is sodium hypochlorite.

- (c) If the diapering surface is above floor level, provide a strap, restraint or other structural barrier to prevent falling. A child may not be left unattended on the diapering surface.
- (d) Place soiled cloth diapers in a plastic bag labeled with the name of the child and send them home daily.
- (e) Place soiled disposable diapers in a plastic-lined, covered container and dispose of them daily.
- (f) Wash his or her hands with soap and warm running water before and after each diapering or assistance with toileting routines.
- (g) Apply lotions, powders or salves to the child during diapering only at the specific direction of a parent or the child's physician.
- (h) Wash the child during diapering with a disposable towel used only once.
- (i) Wash the child's hands with soap and warm running water after diapering. The hands of children under one year of age may be washed with soap and a wet fabric or paper washcloth, used once and discarded.

250.095

DCF 250.095 Additional requirements when the licensee is not providing care to children at least 50% of the licensed hours of center operation. A licensee who does not provide care and supervision to children at least 50% of the hours of a center's operation shall comply with the following requirements:

(1) The licensee shall complete at least one course from the Wisconsin Professional Credential for Child Care Administrators program within one year from the initial date that the licensee is not providing care and supervision for at least 50% of the hours of the center's operation.

(2) The licensee shall be responsible for the following:

- (a) Management, finance, physical plant, and day-to-day operations of the center.
- (b) Supervision of the planning and implementation of the center's program for children.
- (c) Supervision of center staff, including the following duties:
 1. Implement and maintain a written job description for each staff position.
 2. Implement and maintain a written personnel policy that addresses hours of work, lunch and break times, holidays, vacations, sick leaves, leaves of absence, probationary periods, performance evaluations, grievance procedures, and the disciplinary process. The personnel policy shall contain a procedure that requires staff to notify the licensee and the licensee to notify the department as soon as possible, but no later than the next business day, when any of the following occurs:
 - a. The employee has been convicted of a crime.
 - b. The employee has been or is being investigated by any governmental agency for any other act, offense, or omission, including an investigation related to the abuse or neglect or threat of abuse or neglect, to a child or other client, or an investigation related to misappropriation of a client's property.
 - c. The employee has a substantiated governmental finding against them for abuse or neglect of a child or adult or for misappropriation of a client's property.
 - d. A professional license held by the employee has been denied, revoked, restricted, or otherwise limited.
 3. Ensure that each employee is familiar with the employee's job description, personnel policies, and applicable licensing rules.
 4. Conduct staff meetings at least 9 times in a calendar year and document that the meetings have been held.
 5. Ensure staff compliance with continuing education requirements.

(3) The licensee shall be at the center for at least 30 hours per month for the exclusive purpose of carrying out licensee responsibilities in sub. (2).

250.10**DCF 250.10 Additional requirements for night care.**

(1) **APPLICABILITY.** Family child care centers which operate during any period of time between 9:00 p.m. and 5:00 a.m. shall comply with the requirements of this section.

(2) **GENERAL REQUIREMENTS.**

(a) When the same premises are used for the operation of both day care and night care, the number of children during any overlapping of the day care and night care periods may not exceed the maximum licensed capacity of the center.

(b) Minimum staff-child ratios and group sizes as specified in Table DCF 250.05 shall be maintained during night care.

(c) The parent or center shall provide each child in night care with an individually labeled sleeping garment and a toothbrush.

(3) **PROGRAM.**

(a) Child care staff shall ascertain from a child's parent a child's typical family activities during the period the child is at the center for night care and strive to replicate those activities with the child.

(b) A center offering night care shall provide a self-contained room away from sleeping children where an awake child may engage in activities.

(c) An evening and morning schedule of program activities shall be planned for the hours that children in night care are awake.

(d) School-age children shall have an opportunity to read or do school work.

(4) **PREVENTIVE MEASURES.**

(a) A provider shall develop, submit to the department for approval and implement a plan to evacuate sleeping children in an emergency. Review of the plan shall be part of orientation under s. DCF 250.05(2).

(b) Centers operating during hours of darkness shall have emergency lighting, such as an operable flashlight, readily available to a provider.

(c) Providers shall be awake, available, within call and able to respond to the needs of the children whenever children are in care.

(5) **FEEDING.**

(a) Breakfast shall be served to all children in care for the night, unless the parent specifies otherwise.

(b) A nighttime snack shall be available to all children in care.

(c) A child present at the time the evening meal is served shall be served the evening meal.

(6) **SLEEP.**

(a) Children who attend the center for the evening hours but not the whole night shall have an opportunity to sleep, as needed.

(b) Sleep routines for individual children shall be based on information provided by the parents.

(c) A bed, crib or cot with sheets and blankets individual to each child shall be provided for children spending the night.

(d) The center shall maintain a supply of extra sleeping garments and bedding for emergencies and accidents.

(e) Children under 2 years of age in night care shall sleep in cribs.

DCF 250.11 Licensing administration.

(1) **LICENSING REQUIREMENT.** If a person provides care on a regular basis to 4 or more children under the age of 7 years, that person shall be deemed to be providing care for compensation and shall be licensed.

(2) **GENERAL CONDITIONS FOR APPROVAL OF LICENSE.**

(a) Prior to receiving or continuing a license, an applicant for a license under this chapter shall complete all application forms truthfully and accurately and pay all fees and forfeitures that are due to the department.

(b) The department may refuse to issue or continue a license if another center operated by the licensee is in substantial non-compliance with the licensing rules or has any outstanding fines or forfeitures.

(c) Persons licensed to operate a family child care center shall be responsible, mature individuals who are fit and qualified. In determining whether an applicant is fit and qualified, the department shall consider any history of civil or criminal violations or other offenses substantially related to the care of children by the applicant, owner, manager, representative, employee, center resident or other individual directly or indirectly participating in the operation of the family child care center. A determination that a person is unfit and unqualified includes substantiated findings of child abuse or neglect under ch. 48, Stats., or substantiated abuse under ch. 50, Stats., or under similar statutes in another state or territory whether or not the abuse or neglect results in a criminal charge or conviction.

(d) The department shall issue a family child care license to an applicant within 60 working days after receipt and department approval of a properly completed application, satisfactory department investigation and determination that the applicant is fit and qualified. Continued licensure requires a licensee to remain fit and qualified.

Note: See DCF 250.03(11) for the definition of “fit and qualified.”

(e) If the department has reason to believe that the physical or mental health of any person associated with the care of children at the center or any household resident of the center may endanger children in care, the department may require that a written statement be submitted by a physician or, if appropriate, by a licensed mental health professional that certifies the condition of the individual and the possible effect of that condition on the family child care center or the children in care.

(f) The department may deny or revoke the license if the examination specified under par. (e) gives the department reasonable concern for the care of children.

(g) The department may not process an application for a license if the applicant has had a license or certification to operate a child care center revoked or denied within the last 2 years prior to the date of the application. An applicant is deemed ineligible to submit an application for a license and a person may not hire an employee within 2 years from the date an applicant or employee had a child care license or certification revoked or denied.

(h) The department shall consider a licensee who fails to submit any of the materials described in sub. (4) or (5) by the expiration or continuation date of a license to have surrendered the license and to no longer hold title to the license. The former licensee may not continue to operate the child care center.

(3) **INITIAL APPLICATION FOR A PROBATIONARY LICENSE.**

(a) An applicant for a license shall have obtained pre-licensing technical assistance that results in a completed initial licensing study checklist from a representative of the department prior to submitting an application for a license.

Note: 1. Information on how to obtain pre-licensing technical assistance is available from the appropriate regional office in Appendix A. The Department will provide the application form to an applicant upon completion of the pre-licensing technical assistance.

Note: 2. An initial licensing study checklist includes a list of those rules that must be met before a license can be issued. A copy of the checklist is available from a representative of the Department or the appropriate regional office in Appendix A.

(b) An applicant for a license shall submit an application at least 60 days before the date proposed for the center to begin operating.

250.11(3)(c)

(c) An applicant for an initial license shall include all the following with the application form:

1. The license fee required under s. 48.65(3)(a), Stats.
2. A completed background information disclosure form provided by the department for the applicant and, if the center will be located in a residence, any household member aged 10 and above and any applicable fees.
3. A statement from a representative of the department that details the results of any pre-licensing technical assistance.
4. A statement from the applicant that indicates the center is in compliance with all applicable items in this chapter.
5. Results of a water test if the center has a private well.
6. Results of a vehicle safety inspection if the center will transport children.
7. Documentation of liability insurance on the child care business required under s. DCF 250.04(2)(g) if the center has cats or dogs that are in areas accessible to children.
8. A copy of all center policies as specified under s. DCF 250.04(2)(e).
9. Any other materials determined by the department as necessary to complete the department's licensing investigation.

(d) Upon submission of a complete application, the department shall conduct an investigation to determine whether the applicant is eligible for a license.

(e) If the department determines that the applicant is eligible for a license, the department shall issue a probationary license having a 6 month duration. A probationary license may be renewed for one 6-month period.

(f) If the department determines that an application does not comply with the applicable requirements of this chapter or the department's investigation determines that the applicant is not eligible for a license, the department may deny the application.

(4) OBTAINING A REGULAR LICENSE.

(a) At least 30 days before the expiration date of a probationary license, an applicant for license renewal shall submit to the department the following materials:

1. A completed license application.
2. Any completed Background Information Disclosure forms including any applicable fees required under s. 48.685(6)(a), Stats., and s. DCF 250.04(2)(L) and (m).
3. The license renewal fee under s. 48.65(3)(a), Stats., and any forfeitures due and owing under s. 48.715(3), Stats., or penalties under s. 48.76, Stats.
4. Any changes to center policies, if not previously submitted.
5. Results of a water test if the center has a private well.
6. Results of a vehicle safety inspection if the center will transport children.
7. Documentation of liability insurance on the child care business required under s. DCF 250.04(2)(g) if the center has cats or dogs that are in areas accessible to children.
8. Any other materials determined by the department as necessary to complete the department's licensing investigation.

(b) If the department determines that the applicant has met the minimum requirements for a license under s. 48.67, Stats., and if the applicant has paid any applicable fees under ss. 48.65 and 48.685(8), Stats., any forfeiture under s. 48.715(3)(a), Stats., and any applicable penalty under s. 48.76, Stats., the department shall issue the applicant a regular license. Regular licenses shall be reviewed and continued for a 2-year period.

(5) CONTINUING A REGULAR LICENSE.

(a) A regular license shall be valid indefinitely, unless suspended or revoked by the department or surrendered by the licensee.

(b) At least 30 days before the continuation review date of the license, an applicant for license renewal shall submit to the department the following materials:

1. A completed license continuation application.
2. Any completed Background Information Disclosure forms including any applicable fees required under s. 48.685(6)(a), Stats., and s. DCF 250.04(2)(L) and (m).

250.11(5)(b)3.

3. The license renewal fee under s. 48.65(3)(a), Stats., and any forfeiture due and owing under s. 48.715(3), Stats., or penalty under s. 48.76, Stats.
4. Any changes to center policies, if not previously submitted.
5. Results of a water test if the center has a private well.
6. Results of a vehicle safety inspection if the center will transport children.
7. Documentation of the liability insurance on the child care business required under s. DCF 250.04(2)(g) if the center has cats or dogs that are in areas accessible to children.
8. Any other materials determined by the department as necessary to complete the department's licensing investigation.

(c) If the department determines that the licensee has met the minimum requirements for a license under s. 48.67, Stats., has paid the applicable fees referred to in ss. 48.65 and 48.685(8), Stats., any forfeiture under s. 48.715(3)(a), Stats., and any penalty under s. 48.76, Stats., the department shall continue the license for an additional 2 years.

(6) AMENDING A LICENSE.

(a) A licensee shall submit to the department a written request for an amendment to the license if the licensee wishes to change any of the following aspects of the license:

1. A change in the number of children served.
2. The age range of the children.
3. The hours of the center's operation.
4. The days of the week the center is in operation.
5. The months of the year the center is in operation.
6. The name of the center.

(b) A licensee may not make a change that affects a condition of the license identified under par. (a) without the prior written approval of the department.

(c) A licensee may not move the center to a new location or change ownership of the center without notifying the department at least 30 days prior to the change. A new application and license is required when a center moves or changes ownership.

Note: The Department's form CFS-0067, Family Day Care License Application, is used to apply for a new license. The Department will provide an application prior to the continuation date for a new license.

(7) ADDITIONAL LICENSE. A licensee applying for a license for an additional center location shall demonstrate compliance with this chapter in the operation of any existing center he or she operates and compliance with rules for any other facility licensed by the department and operated by the licensee. The licensee shall pay any fines, forfeitures or other fees due and owing under s. 48.715, Stats., or s. 48.65, Stats., on other facilities licensed by the department before the department issues an additional license.

(8) LICENSE DENIAL OR REVOCATION.

(a) The department may deny, revoke or suspend a license, initiate other enforcement actions specified in this chapter or in ch. 48, Stats., or place conditions on the license if the applicant or licensee, a proposed or current employee, a volunteer, a household member or any other person having regular contact with the children is, has or has been any of the following:

1. The subject of a pending criminal charge for an action that substantially relates to the care of children or activities of the center.
2. Convicted of a felony, misdemeanor or other offense that substantially relates to the care of children or activities of the center.
3. Determined to have abused or neglected a child pursuant to s. 48.981, Stats., or has been determined to have committed an offense which substantially relates to the care of children or the activities of the center.
4. The subject of a substantiated finding of misconduct in the department's nurse aide registry under s. DHS 129.10.

5. 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.

250.11(8)(a)6.

6. Had a child care license or certification revoked or denied within the last 5 years.

7. Violated any provision of this chapter or ch. 48, Stats., or fails to meet the minimum requirements of this chapter.

8. Made false statements or withheld information.

(b) The department may deny, revoke, refuse to renew or suspend a license, initiate other enforcement actions specified in this chapter or in ch. 48, Stats., or place conditions on the license if the applicant or licensee is not fit and qualified as determined under sub. (2).

Note: See s. DCF 250.0(11) for the definition of “fit and qualified.” Examples of charges, actions or offenses the Department will consider when making a determination under this paragraph that an act substantially relates to the care of children include but are not limited to the following: abuse or neglect of a child; sexual assault; abuse of a resident of a facility; a crime against life and bodily security; kidnapping; abduction; arson of a building or of property other than a building; robbery; receiving stolen property from a child; a crime against sexual morality, such as enticing a minor for immoral purposes or exposing a minor to harmful materials; and interfering with the custody of a child. This list is illustrative. Other types of offenses may be considered.

(c) The department shall deny or refuse to continue or revoke a license if the applicant or licensee has failed to pay court-ordered payments of child or family support, maintenance, birth expenses, medical expenses or other expenses related to the support of a child or former spouse or for the failure of the applicant or licensee to comply, after appropriate notices, with a subpoena or warrant issued by the department or a county child support agency under s. 59.53(5), Stats., and related to paternity or child support proceedings, as provided in a memorandum of understanding entered into under s. 49.857, Stats. Notwithstanding s. 48.72, Stats., an action taken under this subsection is subject to review only as provided in the memorandum of understanding entered into under s. 49.857, Stats., and not as provided in s. 48.72, Stats.

(d) The department shall deny an application for the issuance or continuation of a license or revoke a license if the department of revenue certifies under s. 73.0301, Stats., that the applicant or licensee is liable for delinquent taxes. An action taken under this subsection is subject to review only as provided under s. 73.0301(5), Stats., and not as provided in s. 48.72, Stats.

(9) EFFECT OF NOTICE TO DENY OR REVOKE A LICENSE.

(a)1. If the department decides under sub. (8) to deny the grant of a license or to revoke a license, the department shall notify the applicant or licensee in writing of its decision and the reasons for that decision.

2. If the department revokes a license, the effective date of the revocation shall be either immediately or 30 days after the date of the department notice in subd. 1., based on the criteria under s. 48.715(4m)(a) and (b), Stats., unless the decision is appealed under sub. (11).

(b) Upon receipt of the notice in par. (a) and during any revocation or denial procedures that may result, a family child care 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.

(10) SUMMARY SUSPENSION OF A LICENSE.

(a) Under the authority of s. 227.51(3), Stats., the department shall summarily suspend a license and close a family child care center when the department finds that the public health, safety or welfare requires emergency action and incorporates a finding to that effect into its order. A finding of a requirement for summary suspension of the license may be based on any of 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, an employee, a volunteer or any 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 security.

3. The licensee, an employee, a volunteer or any other person in regular contact with the children in care has been convicted of a felony, misdemeanor or other offense which substantially relates to the care of children or activities of the center or has a pending charge which substantially relates to the care of children or activities of the center.

250.11(10)(a)4.

4. The licensee, employee, volunteer or any 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 by a child protective services agency or law enforcement agency to have abused or neglected a child.

5. The licensee or a person under the supervision of the licensee has committed an action or has created a condition relating to the operation or maintenance of the child care center that directly threatens the health, safety or welfare of any child under the care of the licensee.

(b) An order summarily suspending a license and closing a family child care center may be a verbal order by a licensing representative of the department. Within 72 hours after the order takes effect, the department shall either permit the reopening of the center or proceed under subs. (8) or (9) to revoke the license. A preliminary hearing shall be conducted by the department of administration's division of hearings and appeals, 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.

(11) APPEAL OF DECISION TO DENY OR REVOKE A LICENSE.

(a) Any person aggrieved by the department's decision to deny an initial license or the renewal of a license or to revoke a license may request a hearing on that decision under s. 227.42, Stats. The request for a hearing shall be in writing and submitted to the department of administration's division of hearings and appeals. The request for a hearing shall be sent to the division of hearings and appeals within 10 days after the date of the notice under sub. (9). A request for a hearing is considered filed upon its receipt by the division of hearings and appeals. A request for a hearing transmitted by facsimile to the division of hearings and appeals shall be considered filed on the date and time imprinted by the division's facsimile machine on the transmission report that accompanies the document.

Note: A request for hearing should be submitted by mail to the Division of Hearings and Appeals, P.O. Box 7875, Madison, Wisconsin 53707-7875, or should be delivered to the Division at 5005 University Ave., Room 201, Madison, WI. Hearing requests may be faxed to 608-264-9885. A copy of the request should be sent to the appropriate Division of Early Care and Education regional office listed in Appendix A.

(b) The division of hearings and appeals shall conduct an administrative hearing under s. 227.42, Stats., within 30 calendar days after receipt of the request for the administrative hearing, unless any of the following occurs:

1. The aggrieved person consents to an extension of that time period.
2. The petitioner withdraws the request in writing.
3. The petitioner agrees in writing to accept an informal resolution of the appeal.
4. The petitioner abandons the hearing request. The division of hearings and appeals shall determine that abandonment has occurred when the petitioner, without good cause, fails to appear personally or by representative at the time and place set for the hearing or scheduled pre-hearing matters. Abandonment may also be deemed to have occurred when the petitioner or the authorized representative fails to respond within a reasonable time to correspondence from the division regarding the hearing or when the petitioner is not at an agreed-upon telephone number at the agreed time.

(c) The division of hearings and appeals:

1. Shall consider and apply all standards and requirements of this chapter.
2. Issue a decision no later than 30 calendar days after holding the hearing, unless both parties agree to a later date.
3. May dismiss the petition if it determines that the petitioner has abandoned the request pursuant to par. (b) 4.

(d) If, under s. HA 3.09, the division of hearing and appeals issues a proposed decision, both parties may file comments on the decision with the division of hearings and appeals within 15 calendar days from the date of the proposed decision's issuance. At the close of the comment period, the division shall forward a decision and comments to the secretary for issuance of a final decision, and the secretary shall issue the final decision within 30 calendar days thereafter. The decision of the division of hearings and appeals administrative law judge, if adopted by the secretary, constitutes the final decision of the department.

250.12**DCF 250.12 Complaints, inspections and enforcement actions.****(1) COMPLAINTS.**

(a) Anyone having a complaint about a licensed or illegally operating family child care center may submit that complaint to the department by telephone, letter or personal interview. A representative of the department shall investigate every complaint. If requested by the complainant, the department shall provide the complainant a written report of the investigation findings.

Note: A complaint should be sent, phoned or delivered to the appropriate Division of Early Care and Education regional office listed in Appendix A.

(b) The licensee may not discharge an employee because the employee has reported violations of this chapter to the licensing representative.

(2) INSPECTION. Pursuant to s. 48.73, Stats., the department may visit and inspect any family child care center at any time during licensed hours of operation. A department licensing representative shall have unrestricted access to the premises identified in the license, including access to children served and staff and child records and any other materials or other individuals having information on the family child care center's compliance with this chapter.

(3) ENFORCEMENT ACTION. The department may order any sanction or impose any penalty on a licensee in accordance with s. 48.685, 48.715 or 48.76, Stats.

**APPENDIX A
REGIONAL OFFICES OF THE DIVISION OF EARLY CARE AND EDUCATION**

The Department of Children and Families licenses child care centers through five Division of Early Care and Education regional offices. Below are addresses and phone numbers of the regional offices and related counties.

| REGIONS | COUNTIES |
|--|--|
| <p>Northeastern Regional Office 200 North Jefferson, Suite 411 Green Bay, WI 54301 Gen: (920) 448-5312 Fax: (920) 448-5306</p> | <p>Brown, Calumet, Door, Fond du Lac, Green Lake, Kewaunee, Manitowoc, Marinette, Marquette, Menominee, Oconto, Outagamie, Ozaukee, Shawano, Sheboygan, Washington, Waupaca, Waushara, Winnebago</p> |
| <p>Northern Regional Office 2187 North Stevens Street, Suite C Rhineland, WI 54501 Gen: (715) 365-2500 Fax: (715) 365-2517</p> | <p>Ashland, Bayfield, Florence, Forest, Iron, Langlade, Lincoln, Marathon, Oneida, Portage, Price, Sawyer, Taylor, Vilas, Wood</p> |
| <p>Southeastern Regional Office 141 NW Barstow, Room 104 Waukesha, WI 53188-3789 Gen: (262) 521-5100 Fax: (262) 521-5314</p> | <p>Kenosha, Milwaukee, Racine, Waukesha</p> |
| <p>Southern Regional Office 1 West Wilson Street, Room 655 P.O. Box 8947 Madison, WI 53708-8947 Gen: (608) 266-2900 Fax: (608) 261-7824</p> | <p>Adams, Columbia, Crawford, Dane, Dodge, Grant, Green, Iowa, Jefferson, Juneau, Lafayette, Richland, Rock, Sauk, Walworth</p> |
| <p>Western Regional Office 610 Gibson Street, Suite 2 Eau Claire, WI 54701-3696 Gen: (715) 836-2185 Fax: (715) 836-2516</p> | <p>Barron, Buffalo, Burnett, Chippewa, Clark, Douglas, Dunn, Eau Claire, Jackson, LaCrosse, Monroe, Pepin, Pierce, Polk, Rusk, St. Croix, Trempealeau, Vernon, Washburn</p> |

APPENDIX B
CACFP MEAL PATTERN REQUIREMENTS - AGES 1 to 12

| | Age 1 & 2 | Age 3, 4 & 5 | Age 6 up to 12 |
|---|---------------------------------|---------------------------------|-------------------------------|
| BREAKFAST | | | |
| 1. Milk, fluid | 1/2 cup | 3/4 cup | 1 cup |
| 2. Juice ^a or fruit or vegetable or Fruit(s) or vegetable(s) | 1/4 cup 1/4 cup | 1/2 cup 1/2 cup | 1/2 cup 1/2 cup |
| 3. Grains/Breads: ^b | | | |
| Bread | 1/2 slice | 1/2 slice | 1 slice |
| Cornbread, biscuits, rolls, muffins, etc. ^b | 1/2 serving | 1/2 serving | 1 serving |
| Cereal: Cold dry | 1/4 cup or 1/3 oz. ^c | 1/3 cup or 1/2 oz. ^c | 3/4 cup or 1 oz. ^c |
| Cereal: Hot cooked | 1/4 cup total | 1/4 cup | 1/2 cup |
| Cooked pasta or noodle products | 1/4 cup | 1/4 cup | 1/2 cup |
| LUNCH OR SUPPER | | | |
| 1. Milk | 1/2 cup | 3/4 cup | 1 cup |
| 2. Meat or meat alternate: | | | |
| Meat, poultry, fish, cheese | 1 oz. | 1+1/2 oz. | 2 oz. |
| Alternate protein products ^g | 1 oz. | 1+1/2 oz. | 2 oz. |
| Yogurt: plain or flavored, unsweetened or sweetened | 4 oz. or 1/2 cup | 6 oz. or 3/4 cup | 8 oz. or 1 cup |
| Egg | 1/2 egg | 3/4 egg | 1 egg |
| Cooked dry beans or peas | 1/4 cup | 3/8 cup | 1/2 cup |
| Peanut butter or other nut or seed butter | 2 Tbsp. | 3 Tbsp. | 4 Tbsp |
| Peanuts or soynuts or tree nuts or seeds | 1/2 oz. = 50% ^d | 3/4 oz. = 50% ^d | 1 oz. = 50% ^d |
| 3. Vegetable and/or fruit ^e (at least two) | 1/4 cup total | 1/2 cup total | 3/4 cup total |
| 4. Grains/Breads: ^b | | | |
| Bread | 1/2 slice | 1/2 slice | 1 slice |
| Cornbread, biscuits, rolls, muffins, etc. ^b | 1/2 serving | 1/2 serving | 1 serving |
| Cereal, Hot cooked | 1/4 cup total | 1/4 cup | 1/2 cup |
| Cereal, Cold dry | 1/4 cup or 1/3 oz. ^c | 1/3 cup or 1/2 oz. ^c | 3/4 cup or 1 oz. ^c |
| Cooked pasta or noodle products | 1/4 cup | 1/4 cup | 1/2 cup |
| SUPPLEMENT Select two of the following four components: | | | |
| 1. Milk | 1/2 cup | 1/2 cup | 1 cup |
| 2. Juice ^{a,f} or fruit or vegetable or Fruit(s) or vegetable(s) | 1/2 cup 1/2 cup | 1/2 cup 1/2 cup | 3/4 cup 3/4 cup |
| 3. Grains/Breads ^b | | | |
| Bread | 1/2 slice | 1/2 slice | 1 slice |
| Cornbread, biscuits, rolls, muffins, etc. ^b | 1/2 serving | 1/2 serving | 1 serving |
| Cereal: Cold dry | 1/4 cup or 1/3 oz. ^c | 1/3 cup or 1/2 oz. ^c | 3/4 cup or 1 oz. ^c |
| Cereal: Hot cooked | 1/4 cup | 1/4 cup | 1/2 cup |
| 4. Meat or meat alternate: | | | |
| Meat, poultry, fish, cheese | 1/2 oz. | 1/2 oz. | 1 oz. |
| Alternate protein products ^g | 1/2 oz. | 1/2 oz. | 1 oz. |
| Egg, Large ^h | 1/2 egg | 1/2 egg | 1/2 egg |
| Cooked dry beans or peas | 1/8 cup | 1/8 cup | 1/4 cup |
| Peanut butter or other nut or seed butter | 1 Tbsp. | 1 Tbsp | 2 Tbsp |
| Peanuts or soynuts or tree nuts or seeds | 1/2 oz. | 1/2 oz. | 1 oz. |
| Yogurt: plain or flavored, unsweetened or sweetened | 2 oz. or 1/4 cup | 2 oz. or 1/4 cup | 4 oz. or 1/2 cup |

^a Must be full strength fruit or vegetable juice.

^b Bread, pasta or noodle products, and cereal grains shall be whole grain or enriched, cornbread, biscuits, rolls, muffins, etc., shall be made with whole grain or enriched meal or flour.

^c Either volume (cup) or weight (oz.), whichever is less.

^d No more than 50% of the requirement shall be met with tree nuts or seeds. Tree nuts and seeds shall be combined with another meat/meat alternate to fulfill the requirement. For purpose of determining combinations, 1 oz. of nuts or seeds is equal to 1 oz. of cooked lean meat, poultry or fish.

^e Serve 2 or more kinds of vegetable(s) and/or fruit(s). Full strength vegetable or fruit juice may be counted to meet not more than one-half of this requirement.

^f Juice may not be served when milk is the only other component.

^g Alternate protein products may be used as acceptable meat alternates.

^h One-half egg meets the required minimum amount (one-ounce or less) of meat alternate.

APPENDIX C
CACFP MEAL PATTERN REQUIREMENTS - BIRTH THROUGH 11 MONTHS

The infant meal pattern shall contain, as a minimum, each of the following components in the amounts indicated for the specific age group.

The minimum quantity of food shall be provided to the infant, but may be served during a span of time consistent with the infant's eating habits.

| Birth Through 3 Months | 4 Through 7 Months | 8 Through 11 Months |
|--|--|---|
| BREAKFAST | | |
| 4- 6 fl. oz. formula ¹ or breast milk ^{5,6} | 4-8 fl. oz. formula ¹ or breast milk ^{5,6} 0-3 T. infant cereal ² (optional) | 6-8 fl. oz. formula ¹ , breast milk ^{5,6} 2-4 T. infant cereal ² 1-4 T. fruit and/or vegetable |
| LUNCH OR SUPPER | | |
| 4- 6 fl. oz. formula ¹ or breast milk ^{5,6} | 4-8 fl. oz. formula ¹ or breast milk 0-3 T. infant cereal ² (optional) 0-3 T. fruit and/or vegetable (optional) | 6-8 fl. oz. formula ¹ , breast milk ^{5,6} 2-4 T. infant cereal ² and/or 1-4 T. meat, fish, poultry, egg yolk, or cooked dry beans or peas, or ¹ / ₂ -2 oz. cheese or 1-4 oz. cottage cheese, cheese food, or cheese spread 1-4 T. fruit and/or vegetable |
| SNACK | | |
| 4- 6 fl. oz. formula ¹ or breast milk ^{5,6} | 4-6 fl. oz. formula ¹ or breast milk ^{5,6} | 2-4 fl. oz. formula ¹ , breast milk, or fruit juice ³ 0- ¹ / ₂ bread or 0-2 crackers (optional) ⁴ |

¹ Shall be iron-fortified infant formula.

² Shall be iron-fortified dry infant cereal.

³ Shall be full-strength fruit juice.

⁴ Shall be from whole-grain or enriched meal or flour.

⁵ It is recommended that breast milk be served in place of formula from birth through 11 months.

⁶ For some breast-fed infants who regularly consume less than the minimum amount of breast milk per feeding, a serving of less than the minimum amount of breast milk may be offered, with additional breast milk offered if the infant is still hungry.

Required Guidelines for Infant Meal Pattern

Definition of Infant. Any child less than 12 months of age.

Definition of Infant Formula. Infant formula defined by USDA is “any iron-fortified infant formula intended for dietary use as a sole source for food for normal healthy infants served in liquid state at manufacturer’s recommended dilution”.

Infant Formula/Breast Milk. The decision regarding feeding infants breast milk or the type of infant formula is one for the infant’s doctor and parents/guardian to make together.

Definition of Optional. Optional foods must be served as each infant becomes developmentally ready for the specified foods.

APPENDIX D

CONSUMER PRODUCTS SAFETY COMMISSION (www.cpsc.gov)

Your Used Crib Could Be DEADLY

CPSC Document # 5020

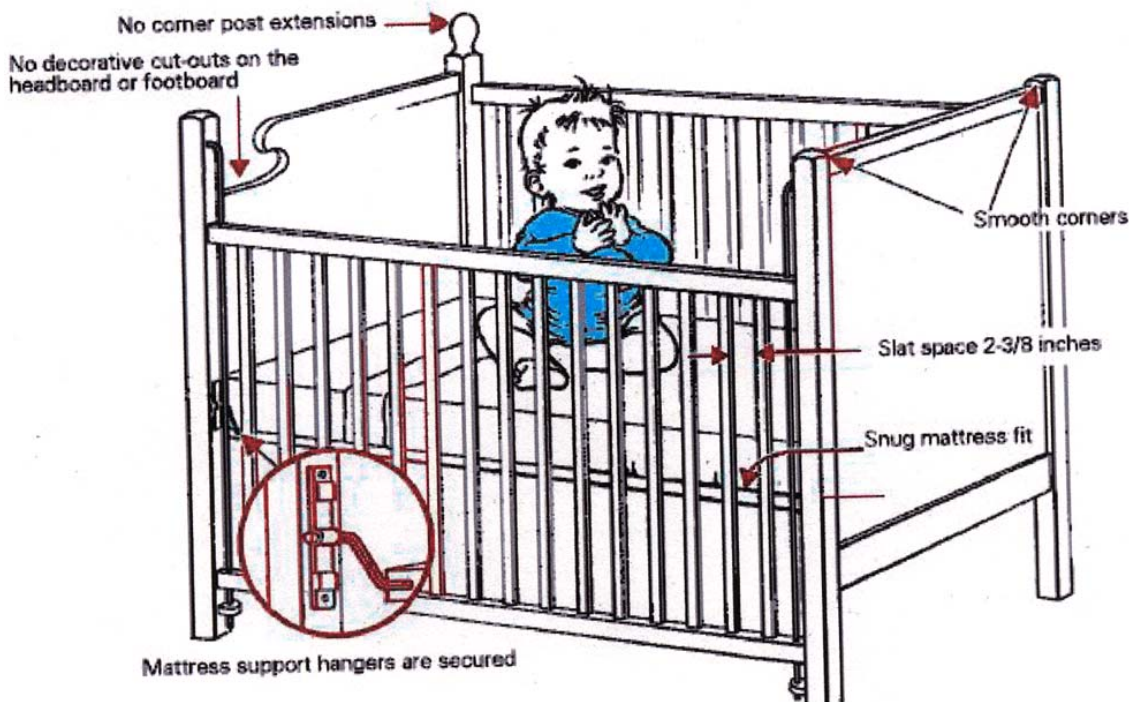
An unsafe used crib could be very dangerous for a baby. Each year, about 50 babies suffocate or strangle when they become trapped between broken crib parts or in cribs with older, unsafe designs.

A safe crib is the best place to put a baby to sleep. Look for a crib with a certification seal showing that it meets national safety standards.

If a crib does not meet these guidelines, it may not be used by children enrolled in your child care center. To protect all children, destroy it and replace it with a safe crib.

A safe crib has:

- No missing, loose, broken, or improperly-installed screws, brackets, or other hardware on the crib or the mattress support.
- No more than 2 3/8 inches between crib slats so a baby's body cannot fit through the slats.
- A firm, snug-fitting mattress so a baby cannot get trapped between the mattress and the side of the crib.
- No corner posts over 1/16 of an inch above the end panels (unless they are over 16 inches high for a canopy) so a baby cannot catch clothing and strangle.
- No cutout areas on the headboard or foot board so a baby's head cannot get trapped.
- A mattress support that does not easily pull apart from the corner posts so a baby cannot get trapped between mattress and crib.
- No cracked or peeling paint to prevent lead poisoning.
- No splinters or rough edges.



APPENDIX E
REQUIRED ITEMS FOR FAMILY CHILD CARE CENTERS

- A. Items to be Submitted to Regional Office at Time of Initial Application**
1. Completed form, *Initial Licensing Checklist – Family Child Care Centers*, and all items listed on the last page.
 2. Supporting documentation regarding organizational structure.
 - a. If the licensee is organized as a corporation, association or cooperative, the Articles of Incorporation and a list that provides the name, title, address, telephone number and dates of office of each member of the board of directors, its committees and its officers.
 - b. If the licensee is organized as a partnership or limited liability company, the Articles of Organization and a list of the full name and address of each partner / member.
- B. Items to be Submitted to Regional Office at Time of License Continuation**
1. Completed form, *License Application – Family Child Care Centers*.
 - a. A list that provides the name, title, address, telephone number and dates of office of each member of the board of directors/governing board.
 - b. A copy of the results of the annual bacteriological water test—including nitrate level test if caring for infants under 6 months of age—if the center uses a private well.
 - c. List of support staff (e.g. cooks, maintenance personnel, etc.) that includes each person’s name and title.
 - d. If the center will transport children, the results of vehicle safety inspection for each vehicle used to transport children in care.
 - e. Any center policies and procedures that have been changed since the last licensing period along with completed form, *Policy Checklist – Family Child Care Centers*.
 - f. If dogs and cats are allowed in areas of the center accessible to children, current proof of liability insurance specifically covering the presence of dogs and cats.
 2. Caregiver Background Check Information:
 - a. Completed form, Background Information Disclosure, for licensee and household members age 10 and older.
 - b. Caregiver Background Check fee for licensee and any adult household members if “Caregiver Background Check Fee(s) Due” appears on the continuation packet cover letter.
 3. Licensing fee.
 4. Completed form, *Licensing Checklist – Family Child Care Centers*.
- C. Items to be Kept in Children’s Files**
1. Completed form, *Child Care Enrollment*, for each child enrolled in the center.
 - a. Field Trip Permission. If the box is checked on the form, *Child Care Enrollment*, nothing additional is required. Form, *Field Trip or Other Activity Notification / Permission – Child Care Centers*, may also be used for this purpose.
 2. Completed form, *Child Care Intake for Child Under 2 Years*, for each child under 2 years of age.
 3. A written agreement, signed by the parent, outlining the plan for a child to come to the center from school, home or other activities and to go from the center to school, home or other activities unless the child is accompanied by a parent or other authorized person or the child is transported by the center. Form, *Alternate Arrival/Release Agreement – Child Care Centers*, or the licensee’s own form may be used to secure the parent’s signed agreement.
 4. Completed form, *Health History and Emergency Care Plan*, for each child enrolled in the center.
 5. Form, *Day Care Immunization Record*, electronic printout from a registry maintained by a health care provider, or other parent-provided record documenting the child’s immunization history.
 6. If the center is licensed to care for mildly ill children, written parental consent for the center to care for the child when mildly ill.
 7. If a child requires medication, completed form, *Authorization to Administer Medication*, signed and dated by the parent to administer medication to a child.
 8. Written authorization from the parent to apply sunscreen or insect repellent. Authorization shall include the brand and ingredient strength.
 9. Form, *Child Health Report – Child Care Centers*, documenting the results of a child’s most recent physical exam (required every 6 months for children under age 2 and every 2 years for children over age 2, except that school age children do not need a physical exam report) and signed and dated by an approved health care provider.
 10. Written authorization from child’s physician if a child under age 1 is to be put to sleep in a position other than on his or her back in a crib.

11. Written authorization from the child's physician if the child must be provided with another type of milk or milk substitute.

D. Items to be Kept in Staff Files

1. Completed form, *Staff Record – Child Care Centers*.
2. The Registry certificate (required for persons licensed or beginning work with children on or after January 1, 2009). If certificate is not required, then a. and b. must be in the file.
 - a. Documentation of the entry-level training required under DCF 250.05(1)(b).
 - b. Documentation of the training required under 250.05(1)(b)7. in shaken baby syndrome prevention if center is licensed to care for children under age 5.
3. Caregiver background check information for employees.
 - a. Form, *Background Information Disclosure (BID)*, for employees 18 and older; adults compensated from other sources; substitute caregivers and volunteers age 18 and older used to meet staff to child ratios (completed prior to the first day of work and every 4 years thereafter). Note: BID form is the only caregiver background check information required in the file for the emergency backup provider.
 - b. Results of the complete caregiver background check including the DOJ criminal history results and Department of Health Services / Department of Regulation and Licensing (DHS/DRL) results (completed within 60 days from the date of hire and at least every 4 years thereafter).
 - c. Results of any out-of-state background checks required.
 - d. Results of any subsequent investigations.
4. Form, *Staff Health Report – Child Care Centers*, that was completed within 12 months prior to, or 30 days after, the person became licensed to, or began working with, children.
5. Documentation of the actual hours a provider, substitute, employee or volunteer has worked and whose time is used to meet the applicable staff-to-child ratio under Table DCF 250.05.
6. For persons who transport children, a copy of the person's driver's license and driving record that is obtained by the licensee under s. DCF 250.08(3)(b).
7. Completed form, *Staff Orientation Checklist – Family Child Care Centers*, documenting orientation for any child care provider or substitute who is not the licensee.
8. Completed *Staff Continuing Education Record – Child Care Centers* or licensee's own form.
 - a. Documentation of 15 hours of annual continuing education.
 - b. Documentation of receipt of training at least every 2 years in all of the following:
 - (1) Child abuse and neglect laws.
 - (2) How to identify children who have been abused or neglected.
 - (3) The procedures for ensuring that all known or suspected cases of child abuse or neglect are immediately reported to the proper authorities.
 - c. Certificate of completion for infant and child cardiopulmonary resuscitation (must be obtained within 6 months of licensure or date of hire and kept current).
 - d. Documentation of completion of at least 10 hours of department-approved training in the care of infants and toddlers if center is licensed to care for children under age 2 (must be obtained within 6 months of licensure or date of hire).
 - e. If the licensee is not providing care and supervision for at least 50% of the hours of the center's operation, documentation that the licensee has completed at least one course from the Wisconsin Profession Credential for Child Care Administrators program within one year.

E. Items to be Provided to Parents

1. A copy of applicable center policies [see 250.04(2)(e)].
2. Written information regarding insurance coverage on the premises, on the child care operation and on vehicles if transportation is provided. Note: Liability insurance is required if cats or dogs are allowed in areas accessible to children during the hours of operation as specified in s. DCF 250.07(7)(h).
3. A summary of the licensing rule DCF 250 Family Child Care. Note: Copies of the brochure "Your Guide to Licensed Child Care" may be used and may be obtained from the Child Care Information Center by calling 1-800-362-7353.
4. When food is provided by the parent, information about the requirements for food groups and quantities specified by the USDA child and adult care food program minimum meal requirements.
5. If pets are added after a child is enrolled, parents shall be notified in writing prior to the pets' addition to the center.

F. Other Required Items

1. Current, accurate written record of the daily attendance on form, *Daily Attendance Record – Child Care Centers*, that includes the actual time of arrival and departure for each child for the length of time the child is enrolled in the program.
2. Medication and Injury Log Book with a stitched binding and lined and numbered pages.
3. If the center will be licensed to care for mildly ill children, a written plan for the provision of care to mildly ill children that has been approved and signed by an approved health care provider.
4. A written plan that has been approved by the department for ensuring supervision of the children in an emergency or during a provider's absence.
5. A written plan for taking appropriate action in the event of a fire or tornado or other emergency.
6. Completed form, *Fire and Safety and Emergency Response Documentation – Family Child Care Centers*, or the licensee's own form.
 - a. Documentation of the monthly smoke detector tests that includes times, dates and the results.
 - b. Documentation of annual fire extinguisher inspection.
 - c. Documentation of monthly practice of the fire and tornado plans.
7. Accurate records of meals and snacks served shall be available for review by parents and the licensing representative. Records must be kept for 3 months.
8. Copy of form, *Vehicle Safety Inspection – Child Care Centers*, for each vehicle used to transport children (Note: The vehicle inspection is to be performed annually.).
9. Current rabies vaccination certificates from your veterinarian for all pets, as applicable.
10. Emergency numbers posted at telephones.
11. If the licensee plans to combine the care of children enrolled in the child care center with foster care of other non-related children or adults, prior written approval of both licensing agencies must be obtained.

G. Items Required to be Posted in an Area of the Center Accessible to Parents

1. Family Child Care license.
 - a. Stipulations
 - b. Conditions
 - c. Exceptions
 - d. Exemptions
2. The results of the most recent licensing inspection.
 - a. Compliance Statement
 - b. Noncompliance Statement and Correction Plan
3. Enforcement action documents.
 - a. Order to Comply with Licensing Rules
 - b. Forfeiture Letter
 - c. Notice of Revocation
 - d. Notice to Deny

APPENDIX F

KEY STATUTES RELATED TO LICENSING OF CHILD CARE CENTERS

This appendix is based upon the unofficial text from Updated Database of 2003-2004 Wisconsin Statutes and Annotations. Only pertinent portions of the statutes are included here and were obtained at <http://folio.legis.state.wi.us>. Action by the legislature may result in changes to these statutes. Only printed volumes are Official Text under s. 35.18(2), Wis. Stats.

48.02 Definitions. In this chapter, unless otherwise defined:

(8) “Guardian” means the person named by the court having the duty and authority of guardianship.

(13) “Parent” means either a biological parent, a husband who has consented to the artificial insemination of his wife under s. 891.40, or a parent by adoption. If the child is a nonmarital child who is not adopted or whose parents do not subsequently intermarry under s. 767.803, “parent” includes a person acknowledged under s. 767.805 or a substantially similar law of another state or adjudicated to be the biological father. “Parent” does not include any person whose parental rights have been terminated.

(15) “Relative” means a parent, stepparent, brother, sister, stepbrother, stepsister, half brother, half sister, brother-in-law, sister-in-law, first cousin, 2nd cousin, nephew, niece, uncle, aunt, stepuncle, steppaunt, or any person of a preceding generation as denoted by the prefix of grand, great, or great-great, whether by blood, marriage, or legal adoption, or the spouse of any person named in this subsection, even if the marriage is terminated by death or divorce.

48.48 Authority of department.

(10) To license child welfare agencies and day care centers as provided in s. 48.66(1)(a).

48.65 Day care centers licensed; fees. (1) No person may for compensation provide care and supervision for 4 or more children under the age of 7 for less than 24 hours a day unless that person obtains a license to operate a day care center from the department. To obtain a license under this subsection to operate a day care center, a person must meet the minimum requirements for a license established by the department under s. 48.67, meet the requirements specified in s. 48.685 and pay the license fee under sub. (3). A license issued under this subsection is valid until revoked or suspended, but shall be reviewed every 2 years as provided in s. 48.66(5).

(2) This section does not include any of the following:

(a) A parent, grandparent, greatgrandparent, stepparent, brother, sister, first cousin, nephew, niece, uncle, or aunt of a child, whether by blood, marriage, or legal adoption, who provides care and supervision for the child.

(am) A guardian of a child who provides care and supervision for the child.

(b) A public or parochial school.

(c) A person employed to come to the home of the child’s parent or guardian for less than 24 hours a day.

(d) A county, city, village, town, school district or library that provides programs primarily intended for recreational or social purposes.

(3)(a) Before the department may issue a license under sub. (1) to a day care center that provides care and supervision for 4 to 8 children, the day care center must pay to the department a biennial fee of \$60.50. Before the department may issue a license under sub. (1) to a day care center that provides care and supervision for 9 or more children, the day care center must pay to the department a biennial fee of \$30.25, plus a biennial fee of \$10.33 per child, based on the number of children that

the day care center is licensed to serve. A day care center that wishes to continue a license issued under sub. (1) shall pay the applicable fee under this paragraph by the continuation date of the license. A new day care center shall pay the applicable fee under this paragraph no later than 30 days before the opening of the day care center. (b) A day care center that wishes to continue a license issued under par. (a) and that fails to pay the applicable fee under par. (a) by the continuation date of the license or a new day care center that fails to pay the applicable fee under par. (a) by 30 days before the opening of the day care center shall pay an additional fee of \$5 per day for every day after the deadline that the group home fails to pay the fee.

48.66 Licensing duties of the department.

(1)(a) Except as provided in s. 48.715(6) and (7), the department shall license and supervise child welfare agencies, as required by s. 48.60, group homes, as required by s. 48.625, shelter care facilities, as required by s. 938.22, and day care centers, as required by s. 48.65. The department may license foster homes or treatment foster homes, as provided by s. 48.62, and may license and supervise county departments in accordance with the procedures specified in this section and in ss. 48.67 to 48.74. In the discharge of this duty the department may inspect the records and visit the premises of all child welfare agencies, group homes, shelter care facilities, and day care centers and visit the premises of all foster homes and treatment foster homes in which children are placed.

(c) A license issued under par. (a) or (b), other than a license to operate a foster home, treatment foster home, or secured residential care center for children and youth, is valid until revoked or suspended. A license issued under this subsection to operate a foster home, treatment foster home, or secured residential care center for children and youth may be for any term not to exceed 2 years from the date of issuance. No license issued under par. (a) or (b) is transferable.

(2) The department shall prescribe application forms to be used by all applicants for licenses from it. The application forms prescribed by the department shall require that the social security numbers of all applicants for a license to operate a child welfare agency, group home, shelter care facility or day care center who are individuals, other than an individual who does not have a social security number and who submits a statement made or subscribed under oath or affirmation as required under sub. (2m)(a)2., be provided and that the federal employer identification numbers of all applicants for a license to operate a child welfare agency, group home, shelter care facility or day care center who are not individuals be provided.

(2m)(a)1. Except as provided in subd. 2., the department shall require each applicant for a license under sub.

(1)(a) to operate a child welfare agency, group home, shelter care facility, or day care center who is an individual to provide that department with the applicant’s social security number, and shall require each applicant for a license under sub. (1)(a) to operate a child welfare agency, group home, shelter care facility, or day

APPENDIX F continued

care center who is not an individual to provide that department with the applicant's federal employer identification number, when initially applying for or applying to continue the license.

2. If an applicant who is an individual does not have a social security number, the applicant shall submit a statement made or subscribed under oath or affirmation to the department that the applicant does not have a social security number. The form of the statement shall be prescribed by the department. A license issued in reliance upon a false statement submitted under this subdivision is invalid.

(b) If an applicant who is an individual fails to provide the applicant's social security number to the department or if an applicant who is not an individual fails to provide the applicant's federal employer identification number to the department, that department may not issue or continue a license under sub. (1)(a) to operate a child welfare agency, group home, shelter care facility, or day care center to or for the applicant unless the applicant is an individual who does not have a social security number and the applicant submits a statement made or subscribed under oath or affirmation as required under par. (a)2.

(c) The subunit of the department that obtains a social security number or a federal employer identification number under par. (a)1. may not disclose that information to any person except to the department of revenue for the sole purpose of requesting certifications under s. 73.0301 or on the request of the subunit of the department that administers the child and spousal support program under s. 49.22(2m).

(3) The department shall prescribe the form and content of records to be kept and information to be reported by persons licensed by it.

(5) A child welfare agency, group home, day care center or shelter care facility license, other than a probationary license, is valid until revoked or suspended, but shall be reviewed every 2 years after the date of issuance as provided in this subsection. At least 30 days prior to the continuation date of the license, the licensee shall submit to the department an application for continuance of the license in the form and containing the information that the department requires. If the minimum requirements for a license established under s. 48.67 are met, the application is approved, the applicable fees referred to in ss. 48.68(1) and 48.685(8) are paid and any forfeiture under s. 48.715(3)(a) or penalty under s. 48.76 that is due is paid, the department shall continue the license for an additional 2-year period, unless sooner suspended or revoked. If the application is not timely filed, the department shall issue a warning to the licensee. If the licensee fails to apply for continuance of the license within 30 days after receipt of the warning, the department may revoke the license as provided in s. 48.715(4) and (4m)(b).

48.67 Rules governing child welfare agencies, day care centers, foster homes, treatment foster homes, group homes, shelter care facilities, and county departments.

The department shall promulgate rules establishing minimum requirements for the issuance of licenses to, and establishing standards for the operation of, child welfare agencies, day care centers, foster homes, treatment foster homes, group homes, shelter care facilities, and county departments. Those rules shall be designed to protect and promote the health, safety, and welfare of the children in the care of all licensees. The department shall consult with the department of commerce, the department of public instruction, and the child abuse and neglect prevention board before promulgating those rules. Those rules shall include rules that require all of the following:

(1) That all day care center licensees, and all employees and volunteers of a day care center, who provide care and supervision for children under one year of age receive, before the date on which the license is issued or the employment or volunteer work commences, whichever is applicable, training in the most current medically accepted methods of preventing sudden infant death syndrome.

(2) That all day care center licensees, and all employees and volunteers of a day care center, who provide care and supervision for children under 5 years of age receive, before the date on which the license is issued or the employment or volunteer work commences, whichever is applicable, the training relating to shaken baby syndrome and impacted babies required under s. 253.15(4).

(3)(a) That all day care center licensees, and all employees of a day care center, who provide care and supervision for children have current proficiency in the use of an automated external defibrillator, as defined in s. 146.50(1)(cr) [s. 256.15(1)(cr)], achieved through instruction provided by an individual, organization, or institution of higher education that is approved under s. 46.03(38) to provide such instruction.

48.68 Investigation of applicant; issuing of license.

(1) After receipt of an application for a license, the department shall investigate to determine if the applicant meets the minimum requirements for a license adopted by the department under s. 48.67 and meets the requirements specified in s. 48.685, if applicable. In determining whether to issue or continue a license, the department may consider any action by the applicant, or by an employee of the applicant, that constitutes a substantial failure by the applicant or employee to protect and promote the health, safety and welfare of a child. Upon satisfactory completion of this investigation and payment of the fee required under s. 48.615(1)(a) or (b), 48.625(2)(a), 48.65(3)(a) or 938.22(7)(b), the department shall issue a license under s. 48.66(1)(a) or, if applicable, a probationary license under s. 48.69 or, if applicable, shall continue a license under s. 48.66(5). At the time of initial licensure and license renewal, the department shall provide a foster home licensee with written information relating to the age-related monthly foster care rates and supplemental payments specified in s. 48.62(4), including payment amounts, eligibility requirements for supplemental payments and the procedures for applying for supplemental payments.

48.685 Criminal history and child abuse record search.

(1) In this section:

(ag)1. "Caregiver" means any of the following:

a. A person who is, or is expected to be, an employee or contractor of an entity, who is or is expected to be under the control of the entity, as defined by the department by rule, and who has, or is expected to have, regular, direct contact with clients of the entity.

b. A person who has, or is seeking, a license, certification or contract to operate an entity.

2. "Caregiver" does not include a person who is certified as an emergency medical technician under s. 256.15 if the person is employed, or seeking employment, as an emergency medical technician and does not include a person who is certified as a first responder under s. 256.15 if the person is employed, or seeking employment, as a first responder.

(am) "Client" means a child who receives direct care or treatment services from an entity.

(ar) "Contractor" means, with respect to an entity, a person, or that person's agent, who provides services to the entity

under an express or implied contract or subcontract, including a person who has staff privileges at the entity.
(av) "Direct contact" means face-to-face physical proximity to a client that affords the opportunity to commit abuse or neglect of a client or to misappropriate the property of a client.

(b) "Entity" means a child welfare agency that is licensed under s. 48.60 to provide care and maintenance for children, to place children for adoption or to license foster homes or treatment foster homes; a foster home or treatment foster home that is licensed under s. 48.62; a group home that is licensed under s. 48.625; a shelter care facility that is licensed under s. 938.22; a day care center that is licensed under s. 48.65 or established or contracted for under s. 120.13(14); a day care provider that is certified under s. 48.651; or a temporary employment agency that provides caregivers to another entity.

(bm) "Nonclient resident" means a person who resides, or is expected to reside, at an entity, who is not a client of the entity and who has, or is expected to have, regular, direct contact with clients of the entity.

(br) "Reservation" means land in this state within the boundaries of a reservation of a tribe or within the bureau of Indian affairs service area for the Ho-Chunk Nation.

(c) "Serious crime" means any of the following:

1. A violation of s. 940.19(3), 1999 stats.
2. A violation of s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19(2), (4), (5) or (6), 940.22(2) or (3), 940.225(1), (2) or (3), 940.285(2), 940.29, 940.295, 948.02(1) or (2), 948.025, 948.03(2), 948.05, 948.051, 948.055, 948.06, 948.07, 948.08, 948.085, 948.11(2)(a) or (am), 948.12, 948.13, 948.21(1), 948.30, or 948.53.
3. A violation of s. 940.302(2) if s. 940.302(2)(a)1. b. applies.
4. A violation of the law of any other state or United States jurisdiction that would be a violation listed in subd. 1., 2., or 3. if committed in this state.

(e) "Tribe" means a federally recognized American Indian tribe or band in this state.

(2)(am) The department, a county department, a child welfare agency or a school board shall obtain all of the following with respect to a caregiver specified in sub. (1)(ag)1. b., a nonclient resident of an entity and a person under 18 years of age, but not under 12 years of age, who is a caregiver of a day care center that is licensed under s. 48.65 or established or contracted for under s. 120.13(14) or of a day care provider that is certified under s. 48.651:

1. A criminal history search from the records maintained by the department of justice.
2. Information that is contained in the registry under s. 146.40(4g) regarding any findings against the person.
3. Information maintained by the department of regulation and licensing regarding the status of the person's credentials, if applicable.
4. Information maintained by the department regarding any substantiated reports of child abuse or neglect against the person.
5. Information maintained by the department of health services under this section and under ss. 48.651(2m), 48.75(1m), and 120.13(14) regarding any denial to the person of a license, continuation or renewal of a license, certification, or a contract to operate an entity for a reason specified in sub. (4m)(a)1. to 5. and regarding any denial to the person of employment at, a contract with, or permission to reside at an entity for a reason specified in sub. (4m)(b)1. to 5. If the information obtained under this subdivision indicates that the person has been denied a license, continuation or renewal of a license, certification, a contract,

employment, or permission to reside as described in this subdivision, the department, a county department, a child welfare agency or a school board need not obtain the information specified in subds. 1. to 4.

(b)1. Every entity shall obtain all of the following with respect to a caregiver specified in sub. (1)(ag)1. a. of the entity:

- a. A criminal history search from the records maintained by the department of justice.
- b. Information that is contained in the registry under s. 146.40(4g) regarding any findings against the person.
- c. Information maintained by the department of regulation and licensing regarding the status of the person's credentials, if applicable.
- d. Information maintained by the department regarding any substantiated reports of child abuse or neglect against the person.

e. Information maintained by the department of health services under this section and under ss. 48.651(2m), 48.75(1m), and 120.13(14) regarding any denial to the person of a license, continuation or renewal of a license, certification, or a contract to operate an entity for a reason specified in sub. (4m)(a)1. to 5. and regarding any denial to the person of employment at, a contract with, or permission to reside at an entity for a reason specified in sub. (4m)(b)1. to 5. If the information obtained under this subd. 1. e. indicates that the person has been denied a license, continuation or renewal of a license, certification, a contract, employment, or permission to reside as described in this subd. 1. e., the entity need not obtain the information specified in subd. 1. a. to d.

4. Subdivision 1. does not apply with respect to a person under 18 years of age, but not under 12 years of age, who is a caregiver or nonclient resident of a day care center that is licensed under s. 48.65 or established or contracted for under s. 120.13(14) or of a day care provider that is certified under s. 48.651 and with respect to whom the department, a county department or a school board is required under par. (am)(intro.) to obtain the information specified in par. (am)1. to 5.

(bb) If information obtained under par. (am) or (b)1. indicates a charge of a serious crime, but does not completely and clearly indicate the final disposition of the charge, the department, county department, child welfare agency, school board or entity shall make every reasonable effort to contact the clerk of courts to determine the final disposition of the charge. If a background information form under sub. (6)(a) or (am) indicates a charge or a conviction of a serious crime, but information obtained under par. (am) or (b)1. does not indicate such a charge or conviction, the department, county department, child welfare agency, school board or entity shall make every reasonable effort to contact the clerk of courts to obtain a copy of the criminal complaint and the final disposition of the complaint. If information obtained under par. (am) or (b)1., a background information form under sub. (6)(a) or (am) or any other information indicates a conviction of a violation of s. 940.19(1), 940.195, 940.20, 941.30, 942.08, 947.01 or 947.013 obtained not more than 5 years before the date on which that information was obtained, the department, county department, child welfare agency, school board or entity shall make every reasonable effort to contact the clerk of courts to obtain a copy of the criminal complaint and judgment of conviction relating to that violation.

(bd) Notwithstanding pars. (am) and (b)1., the department, a county department, a child welfare agency or a school board is not required to obtain the information specified in par. (am)1. to 5., and an entity is not required to obtain the

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information specified in par. (b)1. a. to e., with respect to a person under 18 years of age whose background information form under sub. (6)(am) indicates that the person is not ineligible to be employed, contracted with or permitted to reside at an entity for a reason specified in sub. (4m)(b)1. to 5. and with respect to whom the department, county department, child welfare agency, school board or entity otherwise has no reason to believe that the person is ineligible to be employed, contracted with or permitted to reside at an entity for any of those reasons. This paragraph does not preclude the department, a county department, a child welfare agency or a school board from obtaining, at its discretion, the information specified in par. (am)1. to 5. with respect to a person described in this paragraph who is a nonclient resident or a prospective nonclient resident of an entity.

(bg) If an entity employs or contracts with a caregiver for whom, within the last 4 years, the information required under par. (b)1. a. to c. and e. has already been obtained by another entity, the entity may obtain that information from that other entity, which shall provide the information, if possible, to the requesting entity. If an entity cannot obtain the information required under par. (b)1. a. to c. and e. from another entity or if an entity has reasonable grounds to believe that any information obtained from another entity is no longer accurate, the entity shall obtain that information from the sources specified in par. (b)1. a. to c. and e.

(bm) If the person who is the subject of the search under par. (am) or (b)1. is not a resident of this state, or if at any time within the 3 years preceding the date of the search that person has not been a resident of this state, or if the department, county department, child welfare agency, school board or entity determines that the person's employment, licensing or state court records provide a reasonable basis for further investigation, the department, county department, child welfare agency, school board or entity shall make a good faith effort to obtain from any state or other United States jurisdiction in which the person is a resident or was a resident within the 3 years preceding the date of the search information that is equivalent to the information specified in par. (am)1. or (b)1. a. The department, county department, child welfare agency, school board or entity may require the person to be fingerprinted on 2 fingerprint cards, each bearing a complete set of the person's fingerprints. The department of justice may provide for the submission of the fingerprint cards to the federal bureau of investigation for the purposes of verifying the identity of the person fingerprinted and obtaining records of his or her criminal arrests and convictions.

(c)1. If the person who is the subject of the search under par. (am) is seeking an initial license to operate a foster home or treatment foster home or is seeking relicensure after a break in licensure, the department, county department, or child welfare agency shall request under 42 USC 16962(b) a fingerprint-based check of the national crime information databases, as defined in 28 USC 534(f)(3)(A). The department, county department, or child welfare agency may release any information obtained under this subdivision only as permitted under 42 USC 16962(e).

2. If the person who is the subject of the search under par. (am) is seeking a license to operate a foster home or treatment foster home or is an adult nonclient resident of the foster home or treatment foster home and if the person is not, or at any time within the 5 years preceding the date of the search has not been, a resident of this state, the department, county department, or child welfare agency shall check any child abuse or neglect registry maintained by any state or other U.S. jurisdiction in which the person is a resident or

was a resident within those 5 years for information that is equivalent to the information specified in par. (am) 4. The department, county department, or child welfare agency may not use any information obtained under this subdivision for any purpose other than a search of the person's background under par. (am).

(d) Every entity shall maintain, or shall contract with another person to maintain, the most recent background information obtained on a caregiver under par. (b). The information shall be made available for inspection by authorized persons, as defined by the department by rule.

(3)(a) Every 4 years or at any time within that period that the department, a county department, a child welfare agency, or a school board considers appropriate, the department, county department, child welfare agency, or school board shall request the information specified in sub. (2)(am)1. to 5. for all caregivers specified in sub. (1)(ag)1. b. who are licensed, certified, or contracted to operate an entity, for all persons who are nonclient residents of such a caregiver, and for all persons under 18 years of age, but not under 12 years of age, who are caregivers of a day care center that is licensed under s. 48.65 or established or contracted for under s. 120.13(4) or of a day care provider that is certified under s. 48.651.

(b) Every 4 years or at any time within that period that an entity considers appropriate, the entity shall request the information specified in sub. (2)(b)1. a. to e. for all persons who are caregivers specified in sub. (1)(ag)1. a. of the entity other than persons under 18 years of age, but not under 12 years of age, who are caregivers of a day care center that is licensed under s. 48.65 or established or contracted for under s. 120.13(14) or of a day care provider that is certified under s. 48.651.

(3m) Notwithstanding subs. (2)(b)1. and (3)(b), if the department, a county department, a child welfare agency or a school board has obtained the information required under sub. (2)(am) or (3)(a) with respect to a person who is a caregiver specified in sub. (1)(ag)1. b. and that person is also an employee, contractor or nonclient resident of an entity, the entity is not required to obtain the information specified in sub. (2)(b)1. or (3)(b) with respect to that person.

(4) An entity that violates sub. (2), (3) or (4m)(b) may be required to forfeit not more than \$1,000 and may be subject to other sanctions specified by the department by rule.

(4m)(a) Notwithstanding s. 111.335, and except as provided in par. (ad) and sub. (5), the department may not license, or continue or renew the license of, a person to operate an entity, a county department may not certify a day care provider under s. 48.651, a county department or a child welfare agency may not license, or renew the license of, a foster home or treatment foster home under s. 48.62 and a school board may not contract with a person under s. 120.13(14), if the department, county department, child welfare agency or school board knows or should have known any of the following:

1. That the person has been convicted of a serious crime or, if the person is an applicant for issuance or continuation of a license to operate a day care center or for initial certification under s. 48.651 or for renewal of that certification or if the person is proposing to contract with a school board under s. 120.13(14) or to renew a contract under that subsection, that the person has been convicted of a serious crime or adjudicated delinquent on or after his or her 12th birthday for committing a serious crime.

3. That a unit of government or a state agency, as defined in s. 16.61(2)(d), has made a finding that the person has abused or neglected any client or misappropriated the property of any client. 4. That a determination has been made under s.

48.981 (3)(c)4. that the person has abused or neglected a child.

5. That, in the case of a position for which the person must be credentialed by the department of regulation and licensing, the person's credential is not current or is limited so as to restrict the person from providing adequate care to a client.

(ad) The department, a county department or a child welfare agency may license a foster home or treatment foster home under s. 48.62, a county department may certify a day care provider under s. 48.651 and a school board may contract with a person under s. 120.13 (14), conditioned on the receipt of the information specified in sub. (2)(am) indicating that the person is not ineligible to be licensed, certified or contracted with for a reason specified in par. (a)1. to 5.

(b) Notwithstanding s. 111.335, and except as provided in sub. (5), an entity may not employ or contract with a caregiver specified in sub. (1)(ag)1. a. or permit a nonclient resident to reside at the entity if the entity knows or should have known any of the following:

1. That the person has been convicted of a serious crime or, if the person is a caregiver or nonclient resident of a day care center that is licensed under s. 48.65 or established or contracted for under s. 120.13 (14) or of a day care provider that is certified under s. 48.651, that the person has been convicted of a serious crime or adjudicated delinquent on or after his or her 12th birthday for committing a serious crime.

3. That a unit of government or a state agency, as defined in s. 16.61 (2)(d), has made a finding that the person has abused or neglected any client or misappropriated the property of any client.

4. That a determination has been made under s. 48.981 (3)(c)4. that the person has abused or neglected a child.

5. That, in the case of a position for which the person must be credentialed by the department of regulation and licensing, the person's credential is not current or is limited so as to restrict the person from providing adequate care to a client.

(c) If the background information form completed by a person under sub. (6)(am) indicates that the person is not ineligible to be employed or contracted with for a reason specified in par. (b)1. to 5., an entity may employ or contract with the person for not more than 60 days pending the receipt of the information sought under sub. (2)(am)1. to 5. or (b)1. If the background information form completed by a person under sub. (6)(am) indicates that the person is not ineligible to be permitted to reside at an entity for a reason specified in par. (b)1. to 5. and if an entity otherwise has no reason to believe that the person is ineligible to be permitted to reside at an entity for any of those reasons, the entity may permit the person to reside at the entity for not more than 60 days pending receipt of the information sought under sub. (2)(am). An entity shall provide supervision for a person who is employed, contracted with or permitted to reside as permitted under this paragraph.

(5)(a) Subject to par. (bm), the department may license to operate an entity, a county department may certify under s. 48.651, a county department or a child welfare agency may license under s. 48.62 and a school board may contract with under s. 120.13(14) a person who otherwise may not be licensed, certified or contracted with for a reason specified in sub. (4m)(a)1. to 5., and an entity may employ, contract with, or permit to reside at the entity a person who otherwise may not be employed, contracted with, or permitted to reside at the entity for a reason specified in sub. (4m)(b)1. to 5., if the person demonstrates to the department, the county department, the child welfare agency, or the school board or, in the case of an entity that is located within the boundaries

of a reservation, to the person or body designated by the tribe under sub. (5d)(a)3., by clear and convincing evidence and in accordance with procedures established by the department by rule or by the tribe that he or she has been rehabilitated.

(bm) For purposes of licensing a foster home or treatment foster home for the placement of a child on whose behalf foster care maintenance payments under s. 48.62(4) will be provided, no person who has been convicted of any of the following offenses may be permitted to demonstrate that he or she has been rehabilitated:

1. An offense under ch. 948 that is a felony.

2. A violation of s. 940.19(3), 1999 stats., or of s. 940.19(2), (4), (5) or (6) or 940.20(1) or (1m), if the victim is the spouse of the person.

3. A violation of s. 943.23(1m) or (1r), 1999 stats., or of s. 940.01, 940.02, 940.03, 940.05, 940.06, 940.21, 940.225(1), (2) or (3), 940.23, 940.305, 940.31, 941.20(2) or (3), 941.21, 943.10(2), 943.23(1g) or 943.32(2).

4. A violation of s. 940.19(3), 1999 stats., or of s. 125.075(1), 125.085(3)(a)2., 125.105(2)(b), 125.66(3), 125.68(12), 940.09, 940.19(2), (4), (5), or (6), 940.20, 940.203, 940.205, 940.207, or 940.25, a violation of s. 346.63(1), (2), (5), or (6) that is a felony under s. 346.65(2)(am)5., 6., or 7., or (f), (2j)(d), or (3m), or an offense under ch. 961 that is a felony, if committed not more than 5 years before the date of the investigation under sub. (2)(am).

(5c)(a) Any person who is permitted but fails under sub. (5)(a) to demonstrate to the department or a child welfare agency that he or she has been rehabilitated may appeal to the secretary or his or her designee. Any person who is adversely affected by a decision of the secretary or his or her designee under this paragraph has a right to a contested case hearing under ch. 227.

(b) Any person who is permitted but fails under sub. (5)(a) to demonstrate to the county department that he or she has been rehabilitated may appeal to the director of the county department or his or her designee. Any person who is adversely affected by a decision of the director or his or her designee under this paragraph has a right to appeal the decision under ch. 68.

(c) Any person who is permitted but fails under sub. (5)(a) to demonstrate to the school board that he or she has been rehabilitated may appeal to the state superintendent of public instruction or his or her designee. Any person who is adversely affected by a decision of the state superintendent or his or her designee under this paragraph has a right to a contested case hearing under ch. 227.

(5d)(a) Any tribe that chooses to conduct rehabilitation reviews under sub. (5) shall submit to the department a rehabilitation review plan that includes all of the following:

1. The criteria to be used to determine if a person has been rehabilitated.

2. The title of the person or body designated by the tribe to whom a request for review must be made.

3. The title of the person or body designated by the tribe to determine whether a person has been rehabilitated.

3m. The title of the person or body, designated by the tribe, to whom a person may appeal an adverse decision made by the person specified under subd. 3. and whether the tribe provides any further rights to appeal.

4. The manner in which the tribe will submit information relating to a rehabilitation review to the department so that the department may include that information in its report to the legislature required under sub. (5g).

5. A copy of the form to be used to request a review and a copy of the form on which a written decision is to be made regarding whether a person has demonstrated rehabilitation.

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(b) If, within 90 days after receiving the plan, the department does not disapprove the plan, the plan shall be considered approved. If, within 90 days after receiving the plan, the department disapproves the plan, the department shall provide notice of that disapproval to the tribe in writing, together with the reasons for the disapproval. The department may not disapprove a plan unless the department finds that the plan is not rationally related to the protection of clients. If the department disapproves the plan, the tribe may, within 30 days after receiving notice of the disapproval, request that the secretary review the department's decision. A final decision under this paragraph is not subject to further review under ch. 227.

(5g) Beginning on January 1 1999, and annually thereafter, the department shall submit a report to the legislature under s. 13.172(2) that specifies the number of persons in the previous year who have requested to demonstrate that they have been rehabilitated under sub. (5)(a), the number of persons who successfully demonstrated that they have been rehabilitated under sub. (5)(a) and the reasons for the success or failure of a person who has attempted to demonstrate that he or she has been rehabilitated.

(5m) Notwithstanding s. 111.335, the department may refuse to license a person to operate an entity, a county department or a child welfare agency may refuse to license a foster home or treatment foster home under s. 48.62, and an entity may refuse to employ or contract with a caregiver or permit a nonclient resident to reside at the entity if the person has been convicted of an offense that is not a serious crime, but that is, in the estimation of the department, county department, child welfare agency or entity, substantially related to the care of a client. Notwithstanding s. 111.335, the department may refuse to license a person to operate a day care center, a county department may refuse to certify a day care provider under s. 48.651, a school board may refuse to contract with a person under s. 120.13(14), a day care center that is licensed under s. 48.65 or established or contracted for under s. 120.13(14) and a day care provider that is certified under s. 48.651 may refuse to employ or contract with a caregiver or permit a nonclient resident to reside at the day care center or day care provider if the person has been convicted of or adjudicated delinquent on or after his or her 12th birthday for an offense that is not a serious crime, but that is, in the estimation of the department, county department, school board, day care center or day care provider, substantially related to the care of a client.

(6)(a) The department shall require any person who applies for issuance, continuation or renewal of a license to operate an entity, a county department shall require any day care provider who applies for initial certification under s. 48.651 or for renewal of that certification, a county department or a child welfare agency shall require any person who applies for issuance or renewal of a license to operate a foster home or treatment foster home under s. 48.62 and a school board shall require any person who proposes to contract with the school board under s. 120.13(14) or to renew a contract under that subsection, to complete a background information form that is provided by the department.

(am) Every 4 years an entity shall require all of its caregivers and nonclient residents to complete a background information form that is provided to the entity by the department.

(b)1. For caregivers who are licensed by the department, for persons under 18 years of age, but not under 12 years of age, who are caregivers of a day care center that is licensed under s. 48.65 or established or contracted for under s. 120.13(14) or of a day care provider that is certified under s. 48.651, for persons who are nonclient residents of an entity that is

licensed by the department, and for other persons specified by the department by rule, the entity shall send the background information form to the department.

2. For caregivers who are licensed or certified by a county department, for persons who are nonclient residents of an entity that is licensed or certified by a county department and for other persons specified by the department by rule, the entity shall send the background information form to the county department.

3. For caregivers who are licensed by a child welfare agency, for persons who are nonclient residents of an entity that is licensed by a child welfare agency and for other persons specified by the department by rule, the entity shall send the background information form to the child welfare agency.

4. For caregivers who are contracted with by a school board, for persons who are nonclient residents of an entity that is contracted with by a school board and for other persons specified by the department by rule, the entity shall send the background information form to the school board.

(c) A person who provides false information on a background information form required under this subsection may be required to forfeit not more than \$1,000 and may be subject to other sanctions specified by the department by rule.

(7) The department shall do all of the following:

(c) Conduct throughout the state periodic training sessions that cover criminal background investigations; reporting and investigating misappropriation of property or abuse or neglect of a client; and any other material that will better enable entities to comply with the requirements of this section.

(d) Provide a background information form that requires the person completing the form to include his or her date of birth on the form.

(8) The department, the department of health services, a county department, a child welfare agency, or a school board may charge a fee for obtaining the information required under sub. (2)(am) or (3)(a) or for providing information to an entity to enable the entity to comply with sub. (2)(b)1. or (3)(b). The fee may not exceed the reasonable cost of obtaining the information. No fee may be charged to a nurse aide, as defined in s. 146.40(1)(d), for obtaining or maintaining information if to do so would be inconsistent with federal law.

48.69 Probationary licenses. Except as provided under s. 48.715(6) and (7), if any child welfare agency, shelter care facility, group home or day care center that has not been previously issued a license under s. 48.66(1)(a) applies for a license, meets the minimum requirements for a license established under s. 48.67 and pays the applicable fee referred to in s. 48.68(1), the department shall issue a probationary license to that child welfare agency, shelter care facility, group home or day care center. A probationary license is valid for up to 6 months after the date of issuance unless renewed under this section or suspended or revoked under s. 48.715. Before a probationary license expires, the department shall inspect the child welfare agency, shelter care facility, group home or day care center holding the probationary license and, except as provided under s. 48.715(6) and (7), if the child welfare agency, shelter care facility, group home or day care center meets the minimum requirements for a license established under s. 48.67, the department shall issue a license under s. 48.66(1)(a). A probationary license issued under this section may be renewed for one 6-month period.

48.70 Provisions of licenses. (1) GENERAL. Each license shall state the name of the person licensed, the premises included under the license, the maximum number of children who can be received and their age and sex and such additional information and special conditions as the department may prescribe.

48.715 Sanctions and penalties. (1) In this section, "licensee" means a person who holds a license under s. 48.66(1)(a) or a probationary license under s. 48.69 to operate a child welfare agency, shelter care facility, group home or day care center.

(2) If the department provides written notice of the grounds for a sanction, an explanation of the types of sanctions that may be imposed under this subsection and an explanation of the process for appealing a sanction imposed under this subsection, the department may order any of the following sanctions:

(a) That a person stop operating a child welfare agency, shelter care facility, group home or day care center if the child welfare agency, shelter care facility, group home or day care center is without a license in violation of s. 48.66(1)(a) or a probationary license in violation of s. 48.69.

(b) That a person who employs a person who has had a license under s. 48.66(1)(a) or a probationary license under s. 48.69 revoked within the previous 5 years terminate the employment of that person within 30 days after the date of the order. This paragraph includes employment of a person in any capacity, whether as an officer, director, agent or employee.

(c) That a licensee stop violating any provision of licensure under s. 48.70(1) or rules promulgated by the department under s. 48.67.

(d) That a licensee submit a plan of correction for violation of any provision of licensure under s. 48.70(1) or rule promulgated by the department under s. 48.67.

(e) That a licensee implement and comply with a plan of correction provided by the department or previously submitted by the licensee and approved by the department.

(f) That a licensee close the intake of any new children until all violations of the provisions of licensure under s. 48.70(1) and the rules promulgated by the department under s. 48.67 are corrected.

(g) That a licensee provide training for the licensee's staff members as specified by the department.

(3) If the department provides written notice of the grounds for a penalty, an explanation of the types of penalties that may be imposed under this subsection and an explanation of the process for appealing a penalty imposed under this subsection, the department may impose any of the following penalties against a licensee or any other person who violates a provision of licensure under s. 48.70(1) or rule promulgated by the department under s. 48.67 or who fails to comply with an order issued under sub. (2) by the time specified in the order:

(a) A daily forfeiture amount per violation of not less than \$10 nor more than \$1,000. All of the following apply to a forfeiture under this paragraph:

1. Within the limits specified in this paragraph, the department may, by rule, set daily forfeiture amounts and payment deadlines based on the size and type of facility or agency and the seriousness of the violation. The department may set daily forfeiture amounts that increase periodically within the statutory limits if there is continued failure to comply with an order issued under sub. (2).

2. The department may directly assess a forfeiture imposed under this paragraph by specifying the amount of that forfeiture in the notice provided under this subsection.

3. A person against whom the department has assessed a forfeiture shall pay that forfeiture to the department within 10 days after receipt of notice of the assessment or, if that person contests that assessment under s. 48.72, within 10 days after receipt of the final decision after exhaustion of administrative review or, if that person petitions for judicial review under ch. 227, within 10 days after receipt of the final decision after exhaustion of judicial review. The department shall remit all forfeitures paid under this subdivision to the secretary of administration for deposit in the school fund.

4. The attorney general may bring an action in the name of the state to collect any forfeiture imposed under this paragraph that has not been paid as provided in subd. 3. The only contestable issue in an action under this subdivision is whether or not the forfeiture has been paid.

(b) Suspension of the licensee's license for not more than 2 weeks.

(c) Refusal to continue a license or a probationary license.

(d) Revocation of a license or a probationary license as provided in sub. (4).

(4) If the department provides written notice of revocation and the grounds for revocation as provided in sub. (4m) and an explanation of the process for appealing a revocation under this subsection, the department may revoke a license issued under s. 48.66(1)(a) or a probationary license issued under s. 48.69 for any of the following reasons:

(a) The department has imposed a penalty on the licensee under sub. (3) and the licensee or a person under the supervision of the licensee either continues to violate or resumes violation of a rule promulgated under s. 48.67, a provision of licensure under s. 48.70(1) or an order under this section forming any part of the basis for the penalty.

(b) The licensee or a person under the supervision of the licensee has committed a substantial violation, as determined by the department, of a rule promulgated under s. 48.67, a provision of licensure under s. 48.70(1) or an order under this section.

(c) The licensee or a person under the supervision of the licensee has committed an action or has created a condition relating to the operation or maintenance of the child welfare agency, shelter care facility, group home or day care center that directly threatens the health, safety or welfare of any child under the care of the licensee.

(d) The licensee or a person under the supervision of the licensee has violated, as determined by the department, a rule promulgated under s. 48.67, a provision of licensure under s. 48.70(1) or an order under this section that is the same as or similar to a rule promulgated under s. 48.67, a provision of licensure under s. 48.70(1) or an order under this section that the licensee or a person under the supervision of the licensee has violated previously.

(e) The licensee has failed to apply for a continuance of the license within 30 days after receipt of the warning under s. 48.66(5).

(4m)(a) For a revocation under sub. (4)(a) or (d), the department shall provide to the licensee written notice of the revocation and the grounds for revocation not less than 30 days before the date of the revocation. The revocation will take effect only if the violation on which the revocation is based remains substantially uncorrected at the end of the 30-day notice period.

(b) For revocations under sub. (4)(b), (c) or (e), the department may revoke the license or probationary license immediately upon written notice to the licensee of the revocation and the grounds for revocation.

(5) The department may deny a license under s. 48.66(1)(a) or a probationary license under s. 48.69 to any person who

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has had a license under s. 48.66(1)(a) or a probationary license under s. 48.69 revoked within the previous 5 years.

(6) The department shall deny, suspend, restrict, refuse to renew, or otherwise withhold a license under s. 48.66(1)(a) or a probationary license under s. 48.69 to operate a child welfare agency, group home, shelter care facility, or day care center, and the department of corrections shall deny, suspend, restrict, refuse to renew, or otherwise withhold a license under s. 48.66(1)(b) to operate a secured residential care center for children and youth, for failure of the applicant or licensee to pay court-ordered payments of child or family support, maintenance, birth expenses, medical expenses, or other expenses related to the support of a child or former spouse or for failure of the applicant or licensee to comply, after appropriate notice, with a subpoena or warrant issued by the department or a county child support agency under s. 59.53(5) and related to paternity or child support proceedings, as provided in a memorandum of understanding entered into under s. 49.857. Notwithstanding s. 48.72, an action taken under this subsection is subject to review only as provided in the memorandum of understanding entered into under s. 49.857 and not as provided in s. 48.72.

(7) The department shall deny an application for the issuance or continuation of a license under s. 48.66(1)(a) or a probationary license under s. 48.69 to operate a child welfare agency, group home, shelter care facility or day care center, or revoke such a license already issued, if the department of revenue certifies under s. 73.0301 that the applicant or licensee is liable for delinquent taxes. An action taken under this subsection is subject to review only as provided under s. 73.0301(5) and not as provided in s. 48.72.

48.72 Appeal procedure. Except as provided in s. 48.715(6) and (7), any person aggrieved by the department's refusal or failure to issue, renew, or continue a license or by any action taken by the department under s. 48.715 has the right to an administrative hearing provided for contested cases in ch. 227. To receive an administrative hearing under ch. 227, the aggrieved person shall send to the department a written request for a hearing under s. 227.44 within 10 days after the date of the department's refusal or failure to issue, renew, or continue a license or the department's action taken under s. 48.715. The department shall hold an administrative hearing under s. 227.44 within 30 days after receipt of the request for the administrative hearing unless the aggrieved person consents to an extension of that time period. Judicial review of the department's decision may be had by any party in the contested case as provided in ch. 227.

48.73 Inspection of licensees. The department may visit and inspect each child welfare agency, foster home, treatment foster home, group home and day care center licensed by it, and for such purpose shall be given unrestricted access to the premises described in the license.

48.735 Immunization requirements; day care centers.

The department, after notice to a day care center licensee, may suspend, revoke or refuse to continue a day care center license in any case in which the department finds that there has been a substantial failure to comply with the requirements of s. 252.04.

48.737 Lead screening, inspection and reduction requirements; day care centers.

The department, after notice to a day care provider certified under s. 48.651, or a day care center that holds a license under s. 48.65 or a probationary license under s. 48.69, may suspend, revoke or refuse to renew or continue a license or certification in any

case in which the department finds that there has been a substantial failure to comply with any rule promulgated under s. 254.162, 254.168 or 254.172.

48.74 Authority of department to investigate alleged violations. Whenever the department is advised or has reason to believe that any person is violating any of the provisions of ss. 48.60, 48.62, 48.625 or 48.65, it shall make an investigation to determine the facts. For the purposes of this investigation, it shall have authority to inspect the premises where the violation is alleged to occur. If it finds that the person is violating any of the specified sections, it may either issue a license if the person is qualified or may institute a prosecution under s. 48.76.

48.76 Penalties. In addition to the sanctions and penalties provided in s. 48.715, any person who violates s. 48.60, 48.62, 48.625, 48.63 or 48.65 may be fined not more than \$500 or imprisoned for not more than one year in county jail or both.

48.77 Injunction against violations. In addition to the penalties provided in s. 48.76, the circuit courts shall have jurisdiction to prevent and restrain by injunction violations of s. 48.60, 48.62, 48.625, 48.63 or 48.65. It shall be the duty of the district attorneys, upon request of the department, to institute action for such injunction under ch. 813.

48.78 Confidentiality of records. (1) In this section, unless otherwise qualified, "agency" means the department, a county department, a licensed child welfare agency, or a licensed day care center.

(2)(a) No agency may make available for inspection or disclose the contents of any record kept or information received about an individual in its care or legal custody, except as provided under s. 48.371, 48.38(5)(b) or (d) or (5m)(d), 48.432, 48.433, 48.48(17)(bm), 48.57(2m), 48.93, 48.981(7), 938.51, or 938.78 or by order of the court. (ag) Paragraph (a) does not prohibit an agency from making available for inspection or disclosing the contents of a record, upon the request of the parent, guardian, or legal custodian of the child who is the subject of the record or upon the request of the child, if 14 years of age or over, to the parent, guardian, legal custodian, or child, unless the agency determines that inspection of the record by the child, parent, guardian, or legal custodian would result in imminent danger to anyone.

(aj) Paragraph (a) does not prohibit an agency from making available for inspection or disclosing the contents of a record, upon the request of a parent, guardian, or legal custodian of a child expectant mother of an unborn child who is the subject of the record, upon the request of an expectant mother of an unborn child who is the subject of the record, if 14 years of age or over, or upon the request of an unborn child by the unborn child's guardian ad litem to the parent, guardian, legal custodian, expectant mother, or unborn child by the unborn child's guardian ad litem, unless the agency determines that inspection of the record by the parent, guardian, legal custodian, expectant mother, or unborn child by the unborn child's guardian ad litem would result in imminent danger to anyone.

(am) Paragraph (a) does not prohibit an agency from making available for inspection or disclosing the contents of a record, upon the written permission of the parent, guardian, or legal custodian of the child who is the subject of the record or upon the written permission of the child, if 14 years of age or over, to the person named in the permission if the parent, guardian, legal custodian, or child specifically

identifies the record in the written permission, unless the agency determines that inspection of the record by the person named in the permission would result in imminent danger to anyone.

(ap) Paragraph (a) does not prohibit an agency from making available for inspection or disclosing the contents of a record, upon the written permission of the parent, guardian, or legal custodian of a child expectant mother of an unborn child who is the subject of the record, or of an expectant mother of an unborn child who is the subject of the record, if 14 years of age or over, and of the unborn child by the unborn child's guardian ad litem, to the person named in the permission if the parent, guardian, legal custodian, or expectant mother, and unborn child by the unborn child's guardian ad litem, specifically identify the record in the written permission, unless the agency determines that inspection of the record by the person named in the permission would result in imminent danger to anyone.

(b) Paragraph (a) does not apply to the confidential exchange of information between an agency and another social welfare agency, a law enforcement agency, a public school, or a private school regarding an individual in the care or legal custody of the agency. A social welfare agency that obtains information under this paragraph shall keep the information confidential as required under this section and s. 938.78. A law enforcement agency that obtains information under this paragraph shall keep the information confidential as required under ss. 48.396(1) and 938.396(1)

(a). A public school that obtains information under this paragraph shall keep the information confidential as required under s. 118.125, and a private school that obtains information under this paragraph shall keep the information confidential in the same manner as is required of a public school under s. 118.125.

(c) Paragraph (a) does not prohibit the department or a county department from using in the media a picture or description of a child in the guardianship of the department or a county department for the purpose of finding adoptive parents for that child.

(d) Paragraph (a) does not prohibit the department of health services or a county department from disclosing information about an individual formerly in the legal custody or under the supervision of that department under s. 48.34(4m), 1993 stats., or formerly under the supervision of that department or county department under s. 48.34(4n), 1993 stats., to the department of corrections, if the individual is at the time of disclosure any of the following:

1. The subject of a presentence investigation under s. 972.15.
2. Under sentence to the Wisconsin state prisons under s. 973.15.
3. Subject to an order under s. 48.366 and placed in a state prison under s. 48.366(8).
4. On probation to the department of corrections under s. 973.09.
5. On parole under s. 302.11 or ch. 304 or on extended supervision under s. 302.113 or 302.114.

(e) Notwithstanding par. (a), an agency shall, upon request, disclose information to authorized representatives of the department of corrections, the department of health services, the department of justice, or a district attorney for use in the prosecution of any proceeding or any evaluation conducted under ch. 980, if the information involves or relates to an individual who is the subject of the proceeding or evaluation. The court in which the proceeding under ch. 980 is pending may issue any protective orders that it determines are appropriate concerning information made available or disclosed under this paragraph. Any representative of the department of corrections, the department of health services,

the department of justice, or a district attorney may disclose information obtained under this paragraph for any purpose consistent with any proceeding under ch. 980.

(g) Paragraph (a) does not prohibit an agency from disclosing information about an individual in its care or legal custody on the written request of the department of regulation and licensing or of any interested examining board or affiliated credentialing board in that department for use in any investigation or proceeding relating to any alleged misconduct by any person who is credentialed or who is seeking credentialing under ch. 448, 455 or 457. Unless authorized by an order of the court, the department of regulation and licensing and any examining board or affiliated credentialing board in that department shall keep confidential any information obtained under this paragraph and may not disclose the name of or any other identifying information about the individual who is the subject of the information disclosed, except to the extent that redisclosure of that information is necessary for the conduct of the investigation or proceeding for which that information was obtained.

(h) Paragraph (a) does not prohibit the department, a county department, or a licensed child welfare agency from entering the content of any record kept or information received by the department, county department, or licensed child welfare agency into the statewide automated child welfare information system established under s. 48.47(7g).

48.981 Abused or neglected children and abused unborn children.

(2) PERSONS REQUIRED TO REPORT. (a) Any of the following persons who has reasonable cause to suspect that a child seen by the person in the course of professional duties has been abused or neglected or who has reason to believe that a child seen by the person in the course of professional duties has been threatened with abuse or neglect and that abuse or neglect of the child will occur shall, except as provided under sub. (2m), report as provided in sub. (3):

1. A physician.
2. A coroner.
3. A medical examiner.
4. A nurse.
5. A dentist.
6. A chiropractor.
7. An optometrist.
8. An acupuncturist.
9. A medical or mental health professional not otherwise specified in this paragraph.
10. A social worker.
11. A marriage and family therapist.
12. A professional counselor.
13. A public assistance worker, including a financial and employment planner, as defined in s. 49.141(1)(d).
14. A school teacher.
15. A school administrator.
16. A school counselor.
17. A mediator under s. 767.405.
18. A child-care worker in a day care center, group home, as described in s. 48.625(1m), or residential care center for children and youth.
19. A day care provider.
20. An alcohol or other drug abuse counselor.
21. A member of the treatment staff employed by or working under contract with a county department under s. 46.23, 51.42, or 51.437 or a residential care center for children and youth.
22. A physical therapist.
- 22m. A physical therapist assistant.

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23. An occupational therapist.
 24. A dietitian.
 25. A speech-language pathologist.
 26. An audiologist.
 27. An emergency medical technician.
 28. A first responder.
 29. A police or law enforcement officer.
- (b) A court-appointed special advocate who has reasonable cause to suspect that a child seen in the course of activities under s. 48.236(3) has been abused or neglected or who has reason to believe that a child seen in the course of those activities has been threatened with abuse and neglect and that abuse or neglect of the child will occur shall, except as provided in sub. (2m), report as provided in sub. (3).
- (bm)1. Except as provided in subd. 3. and sub. (2m), a member of the clergy shall report as provided in sub. (3) if the member of the clergy has reasonable cause to suspect that a child seen by the member of the clergy in the course of his or her professional duties:
- a. Has been abused, as defined in s. 48.02(1)(b) to (f); or
 - b. Has been threatened with abuse, as defined in s. 48.02(1)(b) to (f), and abuse of the child will likely occur.
2. Except as provided in subd. 3. and sub. (2m), a member of the clergy shall report as provided in sub. (3) if the member of the clergy has reasonable cause, based on observations made or information that he or she receives, to suspect that a member of the clergy has done any of the following:
- a. Abused a child, as defined in s. 48.02(1)(b) to (f).
 - b. Threatened a child with abuse, as defined in s. 48.02(1)(b) to (f), and abuse of the child will likely occur.
3. A member of the clergy is not required to report child abuse information under subd. 1. or 2. that he or she receives solely through confidential communications made to him or her privately or in a confessional setting if he or she is authorized to hear or is accustomed to hearing such communications and, under the disciplines, tenets, or traditions of his or her religion, has a duty or is expected to keep those communications secret. Those disciplines, tenets, or traditions need not be in writing.
- (c) Any person not otherwise specified in par. (a), (b), or (bm), including an attorney, who has reason to suspect that a child has been abused or neglected or who has reason to believe that a child has been threatened with abuse or neglect and that abuse or neglect of the child will occur may report as provided in sub. (3).
- (d) Any person, including an attorney, who has reason to suspect that an unborn child has been abused or who has reason to believe that an unborn child is at substantial risk of abuse may report as provided in sub. (3).
- (e) No person making a report under this subsection may be discharged from employment for so doing.

73.0301 License denial, nonrenewal, discontinuation, suspension and revocation based on tax delinquency.

(2) DUTIES AND POWERS OF LICENSING

DEPARTMENTS. (a) Each licensing department and the supreme court, if the supreme court agrees, shall enter into a memorandum of understanding with the department of revenue under sub. (4)(a) that requires the licensing department or supreme court to do all of the following:

1. Request the department of revenue to certify whether an applicant for a license or license renewal or continuation is liable for delinquent taxes. With respect to an applicant for a license granted by a credentialing board, the department of regulation and licensing shall make a request under this subdivision. This subdivision does not apply to the department of transportation with respect to licenses described in sub. (1)(d)7.

2. Request the department of revenue to certify whether a license holder is liable for delinquent taxes. With respect to a holder of a license granted by a credentialing board, the department of regulation and licensing shall make a request under this subdivision.

(b) Each licensing department and the supreme court, if the supreme court agrees, shall do all of the following:

1. a. If, after a request is made under par. (a)1. or 2., the department of revenue certifies that the license holder or applicant for a license or license renewal or continuation is liable for delinquent taxes, revoke the license or deny the application for the license or license renewal or continuation.

The department of transportation may suspend licenses described in sub. (1)(d)7. in lieu of revoking those licenses. A suspension, revocation or denial under this subd. 1. a. is not subject to administrative review or, except as provided in subd. 2. and sub. (5)(am), judicial review. With respect to a license granted by a credentialing board, the department of regulation and licensing shall make a revocation or denial under this subd. 1. a. With respect to a license to practice law, the department of revenue shall not submit a certification under this subd. 1. a. to the supreme court until after the license holder or applicant has exhausted his or her remedies under sub. (5)(a) and (am) or has failed to make use of such remedies.

b. Mail a notice of suspension, revocation or denial under subd. 1. a. to the license holder or applicant. The notice shall include a statement of the facts that warrant the suspension, revocation or denial and a statement that the license holder or applicant may, within 30 days after the date on which the notice of denial, suspension or revocation is mailed, file a written request with the department of revenue to have the certification of tax delinquency on which the suspension, revocation or denial is based reviewed at a hearing under sub. (5)(a). With respect to a license granted by a credentialing board, the department of regulation and licensing shall mail a notice under this subd. 1. b. With respect to a license to practice law, the department of revenue shall mail a notice under this subd. 1. b. and the notice shall indicate that the license holder or applicant may request a hearing under sub. (5)(a) and (am) and that the department of revenue shall submit a certificate of delinquency to suspend, revoke, or deny a license to practice law to the supreme court after the license holder or applicant has exhausted his or her remedies under sub. (5)(a) and (am) or has failed to make use of such remedies. A notice sent to a person who holds a license to practice law or who is an applicant for a license to practice law shall also indicate that the department of revenue may not submit a certificate of delinquency to the supreme court if the license holder or applicant pays the delinquent tax in full or enters into an agreement with the department of revenue to satisfy the delinquency.

2. Except as provided in subd. 2m., if notified by the department of revenue that the department of revenue has affirmed a certification of tax delinquency after a hearing under sub. (5)(a), affirm a suspension, revocation or denial under subd. 1. a. A license holder or applicant may seek judicial review under ss. 227.52 to 227.60, except that the review shall be in the circuit court for Dane County, of an affirmation of a revocation or denial under this subdivision. With respect to a license granted by a credentialing board, the department of regulation and licensing shall make an affirmation under this subdivision.

2m. With respect to a license to practice law, if notified by the department of revenue that the department of revenue has affirmed a certification of tax delinquency after any

requested review under sub. (5)(a) and (am), decide whether to suspend, revoke, or deny a license to practice law.

3. If a person submits a nondelinquency certificate issued under sub. (5)(b)1., reinstate the license or grant the application for the license or license renewal or continuation, unless there are other grounds for suspending or revoking the license or for denying the application for the license or license renewal or continuation. If reinstatement is required under this subdivision, a person is not required to submit a new application or other material or to take a new test. No separate fee may be charged for reinstatement of a license under this subdivision. With respect to a license granted by a credentialing board, the department of regulation and licensing shall reinstate a license or grant an application under this subdivision.

4. If a person whose license has been suspended or revoked or whose application for a license or license renewal or continuation has been denied under subd. 1. a. submits a nondelinquency certificate issued under sub. (3)(a)2., reinstate the license or grant the person's application for the license or license renewal or continuation, unless there are other grounds for not reinstating the license or for denying the application for the license or license renewal or continuation. With respect to a license granted by a credentialing board, the department of regulation and licensing shall reinstate a license or grant an application under this subdivision.

(c)1. Each licensing department and the supreme court may require a holder of a license to provide the following information upon request:

a. If the license holder is an individual and has a social security number, the license holder's social security number. am. If the applicant is an individual and does not have a social security number, a statement made or subscribed under oath or affirmation that the applicant does not have a social security number. The form of the statement shall be prescribed by the department of children and families. A license issued in reliance upon a false statement submitted under this subd. 1. am. is invalid.

b. If the license holder is not an individual, the license holder's federal employer identification number.

2. A licensing department may not disclose any information received under subd. 1. a. or b. to any person except to the department of revenue for the purpose of requesting certifications under par. (b)2. in accordance with the memorandum of understanding under sub. (4) and administering state taxes or to the department of children and families for the purpose of administering s. 49.22.

(5) HEARING. (a) The department of revenue shall conduct a hearing requested by a license holder or applicant for a license or license renewal or continuation under sub. (2)(b)1. b. or by an applicant for certification or recertification or a certificate holder under s. 73.03(50) or 73.09(7m)(b) to review a certification or determination of tax delinquency that is the basis of a denial or revocation of a license in accordance with this section or of a certificate, certification or recertification under s. 73.03(50) or 73.09(7m). A hearing under this paragraph is limited to questions of mistaken identity of the license or certificate holder or applicant and of prior payment of the delinquent taxes for which the department of revenue certified or determined the license or certificate holder or applicant is liable. At a hearing under this paragraph, any statement filed by the department of revenue, the licensing department or the supreme court, if the supreme court agrees, may be admitted into evidence and is prima facie evidence of the facts that it contains. Notwithstanding ch. 227, a person entitled to a hearing under this paragraph is not entitled to any other

notice, hearing or review, except as provided in par. (am) and sub. (2)(b)2.

(am) If a person who holds a license to practice law or who is an applicant for a license to practice law receives a hearing under par. (a) to review a certification or determination of tax delinquency that is the basis for a denial, suspension, or revocation of a license to practice law and such certification or determination is affirmed as a result of the hearing under par. (a), the person may seek judicial review of the certification or determination of tax delinquency under ss. 227.52 to 227.60, except that the review shall be in the circuit court for Dane County.

(b) After a hearing conducted under par. (a) or, in the case of a determination related to a license to practice law, after a hearing under par. (a) or, if the hearing is appealed, after judicial review under par. (am), the department of revenue shall do one of the following:

1. Issue a nondelinquency certificate to a license holder or an applicant for a license or license renewal or continuation if the department determines that the license holder or applicant is not liable for delinquent taxes. For a hearing requested by an applicant for certification or recertification or a certificate holder under s. 73.03(50) or 73.09(7m)(b), the department shall grant a certification or recertification or reinstate a certification if the department determines that the applicant or certificate holder is not liable for delinquent taxes, unless there are other grounds for denying the application or revoking the certification.

2. Provide notice that the department of revenue has affirmed its certification of tax delinquency to a license holder; to an applicant for a license, a license renewal or a license continuation; and to the licensing department or the supreme court, if the supreme court agrees. For a hearing requested by an applicant for certification or recertification or a certificate holder under s. 73.03(50), or 73.09(7m)(b), the department of revenue shall provide notice to the applicant or certificate holder that the department of revenue has affirmed its determination of tax delinquency.

101.123 Smoking prohibited.

(2) REGULATION OF SMOKING.

(bm) Notwithstanding par. (a) and sub. (3), no person may smoke on the premises, indoors or outdoors, of a day care center when children who are receiving day care services are present.

347.48 Safety belts and child safety restraint systems.

(4) CHILD SAFETY RESTRAINT SYSTEMS REQUIRED; STANDARDS; EXEMPTIONS. (ag) In this subsection:

1. "Child booster seat" means a child passenger restraint system that meets the applicable federal standards under 49 CFR 571.213 and is designed to elevate a child from a vehicle seat to allow the vehicle's safety belt to be properly positioned over the child's body.

2. "Designated seating position" has the meaning given in 49 CFR 571.3.

3. "Properly restrained" means any of the following:

a. With respect to par. (as)1. and 2., fastened in a manner prescribed by the manufacturer of the child safety restraint system which permits the system to act as a body restraint but does not include a system in which the only body restraint is a safety belt of the type required under sub. (1).

b. With respect to par. (as)3., wearing a safety belt consisting of a combination lap belt and shoulder harness approved by the department under sub. (2) and fastened in a manner prescribed by the manufacturer of the safety belt so that the safety belt properly fits across the child's lap and the center of the child's chest in a manner appropriate to the child's

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height, weight, and age that permits the safety belt to act as a body restraint.

c. With respect to par. (as)4., fastened in a manner prescribed by the manufacturer of the system which permits the system to act as a body restraint.

(am) No person may transport a child under the age of 8 in a motor vehicle unless the child is restrained in compliance with par.

(as) in a safety restraint system that is appropriate to the child's age and size and that meets the standards established by the department under this paragraph. The department shall, by rule, establish standards in compliance with applicable federal standards, including standards under 49 CFR 571.213, for child safety restraint systems.

(as) A child under the age of 8 years who is being transported in a motor vehicle shall be restrained as follows:

1. If the child is less than one year old or weighs less than 20 pounds, the child shall be properly restrained in a rear-facing child safety restraint system, positioned at a designated seating position in a back passenger seat of the vehicle if the vehicle is equipped with a back passenger seat.

2. Subject to subd. 1., if the child is at least one year old and weighs at least 20 pounds but is less than 4 years old or weighs less than 40 pounds, the child shall be properly restrained in a forward-facing child safety restraint system, positioned at a designated seating position in a back passenger seat of the vehicle if the vehicle is equipped with a back passenger seat.

3. Subject to subds. 1. and 2., if the child is at least 4 years old but less than 8 years old, weighs at least 40 pounds but not more than 80 pounds, and is not more than 57 inches in height, the child shall be properly restrained in a child booster seat.

4. Subject to subds. 1. to 3., if the child is less than 8 years old, the child shall be properly restrained in a safety belt approved by the department under sub. (2).

(b) The department may, by rule, exempt from the requirements under pars. (am) and (as) any child who because of a physical or medical condition or body size cannot be placed in a child safety restraint system, child booster seat, or safety belt.

(c) This subsection does not apply if the motor vehicle is a motor bus, school bus, taxicab, moped, motorcycle or is not required to be equipped with safety belts under sub. (1) or 49 CFR 571.

(d) Evidence of compliance or failure to comply with pars.

(am) and (as) is admissible in any civil action for personal injuries or property damage resulting from the use or operation of a motor vehicle but failure to comply with pars.

(am) and (as) does not by itself constitute negligence.

APPENDIX G

DHS 12 CAREGIVER BACKGROUND CHECKS

Subchapter I — General Provisions

DHS 12.01 Authority and purpose.

DHS 12.02 Applicability.

DHS 12.03 Definitions.

Subchapter II — Background Checks

DHS 12.04 Contracting for background checks.

DHS 12.05 Sanctions.

DHS 12.06 Determining whether an offense is substantially related to client care.

DHS 12.07 Reporting background changes and nonclient residency.

DHS 12.08 Armed forces background searches.

DHS 12.09 Transmittal of background check information.

DHS 12.10 Maintaining confidentiality of background information disclosure forms.

DHS 12.11 Supervision pending receipt of caregiver background checks.

Subchapter III — Rehabilitation Review

DHS 12.12 Rehabilitation process for persons who have committed certain offenses.

Note: Chapter HFS 12 was repealed and recreated as an emergency rule effective February 13, 2000. Chapter HFS 12 as it existed August 31, 2000 was repealed and recreated, Register, August, 2000, effective September 1, 2000. Chapter HFS 12 was renumbered chapter DHS 12 under s. 13.92 (4) (b) 1., Stats., and corrections made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635.

Note: This chapter applies to Department of Health Services and Department of Children and Families programs until such time as each of the departments can adopt separate rules.

Subchapter I — General Provisions

DHS 12.01 Authority and purpose. This chapter is promulgated under the authority of s. 48.685 (1) (ag) 1. a., (2) (d), (4), (5) (a), (6) (b) and (c), Stats.; and s. 50.065 (1) (ag) 1. a., (d), (f), (2) (d), (4), (5), (6) (b) and (c), Stats.; and s. 227.11 (2), Stats., to protect from harm clients served by department-regulated programs, children placed in foster homes licensed by county departments of social or human services or private child-placing agencies or children who are being adopted, and children served in day care programs contracted by local school boards under s. 120.13 (14), Stats., by requiring uniform background information screening of persons regulated and persons who are employees of or under contract to regulated entities or who are nonclient residents of regulated entities.

Note: Administrative rules governing county certified day care centers appear in ch. DCF 202.

DHS 12.02 Applicability. (1) SCOPE. (a) *Persons and agencies affected.* This chapter applies to the department; to applicants for regulatory approval from the department; to persons, agencies and entities that have received regulatory approval from the department; to county department and child-placing agencies that license foster homes and approve applications for adoption home studies; to foster home license applicants and licensees and applicants for an adoption home study; to school boards that establish or contract for daycare programs under s. 120.13 (14), Stats., and to applicants and persons under contract to a school board to operate a day care program under s. 120.13 (14), Stats.

(b) *Entities covered.* The entities subject to this chapter are those regulated under: chs. DHS 34, 40, 61, 63, 82, 83, 88, 89, 110, 111, 112, 124, 127, 131, 132, 133, and 134, and chs. DCF 38, 52, 54, 56, 57, 59, 250, 251, and 252, any other direct client care or treatment program that may be licensed or certified or registered by the department.

Note: This chapter applies to Department of Health Services and Department of Children and Families programs until such time as each of the departments can adopt separate rules.

DHS 12.03 Definitions. In this chapter:

- (1) “Adoption home study” means an evaluation of a prospective adoptive family under ch. DCF 51 or 54.
- (2) “Agency” means the department, a county department or a school board or a child welfare agency licensed under s. 48.60, Stats., as a child-placing agency.
- (3) “Background information disclosure form” means the department’s form, F-82064, on which a person provides certain information concerning the person’s background.
- (4) “Bar” means, as a noun, that a person is not permitted to receive regulatory approval, or be employed as a caregiver by or under contract with an entity, or to reside as a nonclient at an entity.

(5) “Caregiver” has the meaning specified in s. 48.685 (1) (ag) or 50.065 (1) (ag), Stats., whichever is applicable.

(6) “Client” means a person who receives direct care or treatment services from an entity. For the purposes of this chapter, “client” includes an adopted child for whom an adoption assistance payment is being made under s. 48.975, Stats.

(7) “Contractor” has the meaning specified in ss. 48.685 (1) (ar) and 50.065 (1) (bm), Stats.

(8) “County department” means a county department of social services established under s. 46.215 or 46.22, Stats., or a county department of human services established under s. 46.21 (2m) or 46.23, Stats.

(9) “Department” means the Wisconsin department of health services.

Note: This chapter applies to Department of Health Services and Department of Children and Families programs until such time as each of the departments can adopt separate rules.

(10) “Direct contact” has the meaning specified in ss. 48.685 (1) (ar) and 50.065 (1) (br), Stats.

(11) “Entity” has the meaning specified in s. 48.685 (1) (b) or 50.065 (1) (c), Stats., whichever is applicable.

(12) “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 all are siblings, for no more than 6 children, and also includes a treatment foster home that also provides structured professional treatment by trained individuals, and a home licensed for placement of children for adoption under s. 48.833, Stats., for whom adoption assistance will be provided under s. 48.975, Stats.

(13) “Hospital” means a facility approved as a hospital under s. 50.35, Stats.

(14) “Nonclient resident” has the meaning specified in ss. 48.685 (1) (bm) and 50.065 (1) (cn), Stats.

(15) “Personal care worker agency” means a home health agency licensed under s. 50.49, Stats., and ch. DHS 133 and 105.17 (1).

(16) “Regular” means, in terms of direct contact with clients, contact that is scheduled, planned, expected, or otherwise periodic.

(17) “Regulatory approval” means:

- (a) For purposes of s. 48.685, Stats., any of the following:
 1. Issuance by the department of a license or certification or the continuation or renewal of a license or certification, or approval of a prospective adoptive parent application for a home study.
 2. Issuance or renewal by a county department or child-placing agency of a foster home or treatment foster home license under s. 48.62 or 48.75, Stats., including a home licensed for placement of children for adoption under s. 48.833, Stats., for whom adoption assistance will be provided under s. 48.975, Stats., and includes approval of pre-adoptive applicants who contract for a home study with a licensed private child placing agency for approval of a placement of a child for adoption.

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Note: Administrative rules governing county certified day care centers appear in ch. DCF 202.

3. Approval by a school board under s. 120.13 (14), Stats., of day care services established by or contracted with a day care provider.

(b) For purposes of s. 50.065, Stats., issuance by the department of an entity license, certification, certificate of approval or registration, or approval by the department of the continuation of an entity license, certification, certificate of approval or registration.

(18) "Rehabilitation review" refers to an agency or tribal process where a person who is eligible under s. 48.685 (5) (a) or 50.065 (5), Stats., may seek the removal of a bar from regulatory approval, from employment as a caregiver at or contracting with an entity, or from residency at an entity.

(19) "School board" means the school board or board of school directors in charge of the schools of a school district.

(20) "Serious crime" has the meaning specified in s. 48.685 (1) (c) or 50.065 (1) (e), Stats., whichever is applicable.

(21) "Supportive home care service agency" means a home health agency licensed under s. 50.49, Stats., and ch. DHS 133.

(22) (a) "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., in which treatment, care and maintenance are provided for no more than 4 foster children.

(b) "Treatment foster home" includes a placement for adoption under s. 48.833, Stats., of a child for whom adoption assistance will be provided under s. 48.975, Stats., after adoption is finalized.

(c) "Treatment foster home" does not include a shift-staffed facility, except as permitted under s. DCF 38.02 (2) (d).

(23) "Tribal governing body" means an elected tribal governing body of a federally recognized American Indian tribe.

(24) "Tribe" has the meaning specified in ss. 48.685 (1) (e) and 50.065 (1) (g), Stats.

(25) "Under the entity's control" means an entity does all of the following:

- (a) Determines whether a person employed by or under contract with the entity who has direct, regular contact with clients served by the entity may provide care, treatment, or other similar support service functions to clients.
- (b) Directs or oversees one or more of the following:
 1. The policies or procedures the person must follow in performing his or her duties.
 2. The conditions under which the person performs his or her duties.
 3. The tasks the person performs.
 4. The person's work schedule.
 5. The supervision or evaluation of the person's work or job performance, including imposing discipline or awarding performance awards.
 6. The compensation the person receives for performing his or her duties.

History: Cr. Register, August, 2000, No. 536, eff. 9-1-00; correction in (12) made under s. 13.93 (2m) (b) 7., Stats., Register, April, 2001, No. 544; corrections in (1), (3), (9), (15), (21) and (22) (c) made under s. 13.92 (4) (b) 6. and 7., Stats., Register November 2008 No. 635.

Subchapter II — Background Checks

DHS 12.04 Contracting for background checks.

(1) An entity may enter into and shall retain an agreement or contract with any entity identified under s. 48.685 (1) (b) or 50.065 (1) (c), Stats., or with any college, or university, including any vocational or technical college or school, or temporary employment agency or other person, to have the entity, school, temporary employment agency, or other person obtain and retain required background information

related to caregivers, including contractors, students, or temporary employees, who, as part of their curriculum, must participate in clinical or practicum experiences at an entity.

(2) An entity that enters into an agreement or contract under sub. (1) shall obtain, at a minimum, from the other entity, university, college or technical school, temporary employment agency, or other person contracted with, and shall retain so that it may be promptly retrieved for inspection by the agency, a letter indicating the name or names and social security numbers, if available, of the caregivers, including temporary employees, contractors, or students, listing any convictions learned of during the course of the required background checks, along with any substantiated findings of misconduct, licensure denial or restriction or any other credential limitation found by either the department or the department of regulation and licensing.

Note: To obtain a master copy of the F-82064 Background Information Disclosure Form, in order to reproduce it, either download the form from the Department's internet web site at www.dhs.wisconsin.gov/caregiver/index.htm, or you may request a copy of the form from the agency that regulates your entity.

Note: The only persons who may access information maintained by a county department regarding a substantiated report of child abuse or neglect against a person are those identified in s. 49.981 (7), Stats.

DHS 12.05 Sanctions. (1) SANCTIONABLE ENTITY ACTIONS. An entity that commits any of the following acts may be subject to any of the sanctions specified in sub. (2):

(a) Hires, employs, or contracts with a caregiver, or permits to reside at an entity a nonclient resident, where the entity knows or should have known the caregiver or nonclient resident is barred under s. 48.685 (4m) (b) or 50.065 (4m) (b), Stats.

(b) Violates any provision of initial background information gathering or periodic background information gathering required by s. 48.685 or 50.065, Stats.

(2) ENTITY SANCTIONS. Any of the following sanctions may be imposed on any entity that commits any of the acts described in sub. (1):

- (a) A forfeiture not to exceed \$1,000.
- (b) A requirement that the entity submit to the agency a written corrective action plan specifying corrections that will be made to the identified personnel screening practices needing correction and that the entity implement the plan.
- (c) At entity expense, attendance at agency-designated personnel screening training or other appropriate training.
- (d) Specific conditions or limitations placed on the license, certification or registration or on a school board-issued contract, including denial, revocation, nonrenewal or suspension of regulatory approval issued by the department, or denial, nonrenewal or termination by a school board of a contract with a day care provider under s. 120.13 (14), Stats.
- (e) For a person licensed to operate a child welfare agency, shelter care facility, group foster home or day care facility, any sanction or penalty described in s. 48.715, Stats.
- (f) A requirement that the entity use, at entity expense, a temporary employment agency for screening and hiring personnel.

(3) SANCTIONABLE INDIVIDUAL ACTIONS. Any person who is required to complete a background information disclosure form and who commits any of the following actions may be subject to any of the sanctions specified in sub. (4):

- (a) Fails to complete and submit the background information disclosure form to the appropriate agency or entity.
- (b) Knowingly gives false information on or knowingly omits information from the background information disclosure form submitted to an agency or entity.
- (c) After submitting a background information disclosure form to an agency or entity, subsequently fails to report any information about a conviction for a crime or other act or

offense requested on the background information disclosure form, about a substantiated finding of abuse or neglect or a client or of misappropriation of a client's property, or, in the case of a position for which the person must be credentialed by the department of regulation and licensing, about a licensure denial, restriction, or other license limitation by either the department or the department of regulation and licensing.

(4) INDIVIDUAL SANCTIONS. All of the following sanctions may be imposed by an agency on any person who commits any of the acts described in sub. (3):

- (a) A forfeiture not to exceed \$1,000.
- (b) Denial or revocation of regulatory approval or the termination of a contract.
- (c) Denial or termination of eligibility to reside at the entity.
- (d) Special conditions or limitations placed upon the person, including restriction to an off-premises location during business hours or otherwise restricting the person's contact with clients.

DHS 12.06 Determining whether an offense is substantially related to client care. To determine whether a crime, delinquency adjudication under s. 48.685 (5m) or 50.065 (5m), Stats., or conduct relating to a governmental finding of abuse or neglect of another or of misappropriation of another's property is substantially related to the care of a client, the agency or entity may consider all of the following:

- (1) In relation to the job, any of the following:**
 - (a) The nature and scope of the job's client contact.
 - (b) The nature and scope of the job's discretionary authority and degree of independence in judgment relating to decisions or actions that affect the care of clients.
 - (c) The opportunity the job presents for committing similar offenses.
 - (d) The extent to which acceptable job performance requires the trust and confidence of clients or a client's parent or guardian.
 - (e) The amount and type of supervision received in the job.
- (2) In relation to the offense, any of the following:**
 - (a) Whether intent is an element of the offense.
 - (b) Whether the elements or circumstances of the offense are substantially related to the job duties.
 - (c) Any pattern of offenses.
 - (d) The extent to which the offense relates to vulnerable clients.
 - (e) Whether the offense involves violence or a threat of harm.
 - (f) Whether the offense is of a sexual nature.
- (3) In relation to the person, any of the following:**
 - (a) The number and type of offenses the person committed or for which the person has been convicted.
 - (b) The length of time between convictions or offenses, and the employment decision.
 - (c) The person's employment history, including references, if available.
 - (d) The person's participation in or completion of pertinent programs of a rehabilitative nature.
 - (e) The person's probation or parole status.
 - (f) The person's ability to perform or to continue to perform the job consistent with the safe and efficient operation of the program and the confidence of the clients served including, as applicable, their parents or guardians.
 - (g) The age of the person on the date of conviction or dates of conviction.

Note: A person refused employment or who has had his or her employment terminated and believes he or she may have been discriminated against, may file a complaint under s. 111.335, Stats., with the Equal Rights Division, Department of Workforce Development, P.O. Box 8928, Madison, WI 53708-8928 or telephone 608-266-6860.

DHS 12.07 Reporting background changes and nonclient residency. (1) An entity shall include in its personnel or operating policies a provision that requires caregivers to notify the entity as soon as possible, but no later than the person's next working day, when any of the following occurs.

- (a) The person has been convicted of any crime.
 - (b) The person has been or is being investigated by any governmental agency for any other act, offense, or omission, including an investigation related to the abuse or neglect, or threat of abuse or neglect, to a child or other client, or an investigation related to misappropriation of a client's property.
 - (c) The person has a governmental finding substantiated against them of abuse or neglect of a client or of misappropriation of a client's property.
 - (d) In the case of a position for which the person must be credentialed by the department of regulation and licensing, the person has been denied a license, or the person's license has been restricted or otherwise limited.
- (2)** When any of the following occurs relative to a signatory or other legal party to the entity application for regulatory approval or under which a contract under s. 120.13 (14), Stats., is signed, or relative to a nonclient resident at the entity, an entity shall, as soon as possible, but no later than the regulatory agency's next business day, report the information to the agency that gave regulatory approval, or the school board with which the day care entity contracts under s. 120.13 (14), Stats.

- (a) The person has been convicted of any crime.
 - (b) The person has been or is being investigated by any governmental agency for any other act, offense, or omission, including an investigation related to the abuse or neglect, or threat of abuse or neglect, to a child or other client, or an investigation related to misappropriation of a client's property.
 - (c) The person has a governmental finding substantiated against them of abuse or neglect of a client or of misappropriation of a client's property.
 - (d) In the case of a position for which the person must be credentialed by the department of regulation and licensing, the person has been denied a license, or the person's license has been restricted or otherwise limited.
- (3)** When a person begins residing at or is expected to reside at an entity, or the signatory for licensure changes, the entity shall, as soon as possible, but no later than the regulatory agency's next business day, report the residency, expected residency, or signatory change to the agency that gave regulatory approval or to the school board that the day care entity contracts with under s. 120.13 (14), Stats., and submit to the regulatory agency a completed background information disclosure form for the new nonclient resident or new signatory.

DHS 12.08 Armed forces background searches. If a person who is the subject of a background search under s. 48.685 or 50.065, Stats., served in a branch of the U.S. armed forces, including any reserve component, the agency or entity shall make a good faith effort to obtain the discharge status of that person, either from the discharge papers issued to the person or from the armed forces branch in which the person served. If the discharge status is other than honorable, the agency or entity shall obtain information on the nature and circumstances of the discharge.

DHS 12.09 Transmittal of background check information. (1) When an entity sends a required background information disclosure form to the department

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under s. 48.685 (3) (a), Stats., the entity shall include in the transmittal all the following:

(a) Any reason for denial or revocation of a license or denial of an adoption application.

(b) The date of the license denial or revocation or adoption application denial.

(2) A child-placing agency or county department shall provide the department with written information about each person to whom the child-placing agency or county department denies a license or adoption home study approval for a reason specified in s. 48.685 (4m) (a), Stats., including all the following:

(a) The reason for denial or revocation of a license or denial of adoption application.

(b) The date of the license denial or revocation or adoption application denial.

Note: Send the information required in subs. (1) and (2) to the Bureau of Regulation and Licensing, Division of Children and Family Services, P. O. Box 8916, 1 West Wilson Street, Madison, WI 53708-8916.

(3) In addition to the persons specified in s. 48.685 (6) (b) 2., Stats., an entity shall send a completed background information disclosure form to the county department for a person who is licensed or an adoptive parent applicant studied by a county department.

(4) In addition to the persons specified in s. 48.685 (6) (b) 3., Stats., an entity shall send a completed background information disclosure form to the child-placing agency for a person who is in a home studied for adoptive parent applicant approval.

DHS 12.10 Maintaining confidentiality of background information disclosure forms. Agencies and entities shall retain all required completed department background information forms in a manner that ensures prompt retrieval of the forms for inspection and shall comply with applicable federal and state confidentiality laws.

DHS 12.11 Supervision pending receipt of caregiver background checks. Entity supervision required under ss. 48.685 (4m) (c) and 50.065 (4m) (c), Stats., shall include at a minimum periodic direct observation of the person.

Subchapter III — Rehabilitation Review

DHS 12.12 Rehabilitation process for persons who have committed certain offenses. (1) GENERAL PROVISIONS.

(a) An agency shall conduct rehabilitation reviews as described in this section for persons who are eligible to receive rehabilitation review under this section for any of the following:

1. Entities the agency regulates.
2. Persons an entity employs.
3. Persons an entity contracts with.
4. Nonclient residents of an entity.

(b) 1. A tribal governing body may conduct rehabilitation reviews under ss. 48.685 (5) and 50.065 (5), Stats., if a plan submitted under s. 48.685 (5d) or 50.065 (5d), Stats., has been approved by the department.

2. Tribes desiring to conduct rehabilitation reviews shall send a rehabilitation review plan required under ss. 48.685 (5d) and 50.065 (5d), Stats., to the department.

Note: Send rehabilitation review plans to the Office of Legal Counsel, Department of Health Services, P.O. Box 7850, 1 West Wilson St., Rm 651, Madison, WI 53707-7850.

(2) ELIGIBILITY TO REQUEST REHABILITATION REVIEW.. (a) Any person who is ineligible under s. 50.065 (4m) (a) or (b), or 48.685 (4m) (a) or (b), Stats., to receive regulatory approval, to be employed as a caregiver, or to contract with or reside at an entity, may request a rehabilitation review if the person meets both of the following conditions:

1. The person has not requested a rehabilitation review for a similar type of regulatory approval, job function or nonclient resident status within the preceding year. In this subdivision, “similar” means comparable regulatory approval, or a comparable job function or activity.

Note: Examples of “similarity” and “comparability” are positions that require a comparable level of direct contact with children; a comparable level of unsupervised client access; a previous review involved family day care and the applicant is seeking licensing for group day care; or the applicant sought a group home license and now is seeking a child-caring institution license.

2. If the person is a foster home license applicant under s. 48.62, Stats., or an applicant for an adoption home study, the person has not been convicted of a serious crime under s. 48.685 (5) (bm) 1., 2. or 3., Stats., another crime listed in section III of the appendix that results in a permanent bar, or a similar serious crime in another jurisdiction or, if the person was convicted of a crime under s. 48.685 (5) (bm) 4., Stats., the crime was committed more than 5 years before the background check was requested.

(b) If a person is eligible to request a rehabilitation review, the agency or tribe from which the person is seeking regulatory approval, or the entity with whom the person is seeking employment as a caregiver or a contract, or where the person wishes to reside shall give the person information on rehabilitation review eligibility criteria and on how to obtain the rehabilitation review request form.

Note: To obtain a master copy of the Department’s Rehabilitation Review Request Form (EXS-263) in order to reproduce it, either download the form from the Department’s internet site at www.dhs.wisconsin.gov/caregiver/index.htm, or request a copy of the form from, as appropriate, the agency that regulates the entity or from the entity.

(3) INITIATING A REHABILITATION REVIEW REQUEST. To request a rehabilitation review, an eligible person shall do all of the following:

(a) Obtain a rehabilitation review request form developed by the department or applicable tribe and submit the completed form to the agency that regulates the entity, or to the applicable tribe, or for day care programs established under s. 120.13 (14), Stats., to the school board.

(b) Submit any supporting documents and information required by the applicable rehabilitation review request form to the same agency, tribe, or school board.

(4) PROCESSING REHABILITATION REVIEW REQUESTS. (a) *Rehabilitation review panel.* When an eligible person has filed a complete rehabilitation review request form along with all required additional and supporting information, the applicable agency, tribe, or school board shall appoint a review panel of at least 2 persons to review the information submitted. The panel may request additional information from the person or from other agencies or persons familiar with the person requesting the review.

(b) *Time frame.* If the application form and any requested supporting materials are not complete within 90 days of the date the application is submitted, and the person requesting the review does not have good cause for the failure to submit a complete application form or supporting materials, the rehabilitation approval shall be denied.

(c) *Requester appearance.* The person requesting the rehabilitation review shall have an opportunity to appear before the review panel to answer any questions the panel members may have.

(d) *Rehabilitation decision formulation and factors.* After reviewing the information obtained, the review panel shall decide whether the person has demonstrated, by clear and convincing evidence, that the person is rehabilitated for purposes of receiving regulatory approval, employment as a caregiver, or contracting with or residing at an entity. The panel shall consider at least the following factors, as applicable:

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1. Personal reference checks and comments from employers, persons, and agencies familiar with the applicant and statements from therapists, counselors and other professionals.
2. Evidence of successful adjustment to, compliance with or proof of successful completion of parole, probation, incarceration or work release privileges.
3. Proof that the person has not had subsequent contacts with law enforcement agencies leading to probable cause to arrest or evidence of noncompliance leading to investigations by other regulatory enforcement agencies.
4. Any pending or existing criminal or civil arrest warrants, civil judgments or other legal enforcement actions or injunctions against the person.
5. Any aggravating or mitigating circumstances surrounding the crime, act or offense.
6. Evidence of rehabilitation, such as public or community service, volunteer work, recognition by other public or private authorities for accomplishments or efforts or attempts at restitution, and demonstrated ability to develop positive social interaction and increased independence or autonomy of daily living.
7. The amount of time between the crime, act or offense and the request for rehabilitation review, and the age of the person at the time of the offense.
8. Whether the person is on the sexual offender registry under s. 301.45, Stats., or on a similar registry in another jurisdiction.
9. A victim's impact statement, if appropriate.
10. Employment history, including evidence of acceptable performance or competency in a position and dedication to the person's profession.
11. The nature and scope of the person's contact with clients in the position requested.
12. The degree to which the person would be directly supervised or working independently in the position requested.
13. The opportunity presented for someone in the position to commit similar offenses.
14. The number, type and pattern of offenses committed by the person.
15. Successful participation in or completion of recommended rehabilitation, treatment or programs.
16. Unmet treatment needs.
17. The applicant's veracity.

(5) REHABILITATION DECISIONS. (a) *Review panel decision.* The review panel shall decide whether to approve, defer, or deny rehabilitation approval, and shall issue a written decision to that effect, as follows:

1. If the review panel finds sufficient evidence to support rehabilitation approval, the decision shall indicate, as applicable, whether the person is eligible for regulatory approval, employment as a caregiver, or contracting with or residency at an entity. The decision shall describe the scope of the rehabilitation approval and state any conditions or limitations placed on the approval, such as whether the approval is only for employment doing certain job functions or the eligibility for regulatory approval is only to operate certain entity types.
2. If the review panel decides to defer a rehabilitation decision, the panel decision shall state the reasons for the deferral. Unless otherwise agreed to by the requester, the panel may defer a final decision for a period of not more than 6 months from the initial decision date.
3. If the review panel decides to deny approval of the rehabilitation request, the decision shall explain the reasons for the denial and inform the requester that he or she may appeal the decision as described in s. 48.685 (5c) or 50.065

(5c), Stats., as applicable, by filing a written request for review of the decision within 10 days of receipt.

Note: Pursuant to s. 48.685 (5c), Stats., or 50.065 (5c), Stats., submit an appeal to the following, as appropriate: 1. To appeal a Department denial of a rehabilitation approval, send the appeal request to the Department of Health Services, Office of Legal Counsel, P.O. Box 7850, Madison, WI 53707-7850. 2. To appeal a school board denial of a rehabilitation approval, send the appeal request to the Superintendent of the Department of Public Instruction, 125 South Webster St., Madison, WI 53703; or call 608-266-3390. 3. To appeal a county denial of a rehabilitation approval, send the appeal request to the appropriate county. When any of the preceding rehabilitation appeals are denied, a further appeal is available under ch. 227, Stats. Send a request for a ch. 227, Stats., hearing to appeal any of the preceding Department, Department of Public Instruction or county denials of rehabilitation appeals to the Division of Hearings and Appeals, P. O. Box 7875, Madison, WI 53707-7875. The request may be delivered in person to that office at 5005 University Avenue, Suite 201, Madison, Wisconsin.

Note: Any person who is listed in the Department's caregiver misconduct registry under ch. DHS 13 as having a substantiated finding of abuse or neglect of a client or misappropriation of a client's property as the result of an action the person took while working as a nurse aide in a federally certified nursing home or intermediate care facility for persons with mental retardation (ICF/MR) is permanently prohibited from being employed, in any capacity, in a federally-certified nursing home or a federally-certified ICF/MR. If such a person obtains a rehabilitation approval, the person is eligible to be considered for regulatory approval, for employment as a caregiver, or for non-client residency at or contracting with other entities covered by ss. 50.065 and 48.685, Stats. See 42 CFR 483.13 and 483.420 for federal regulations relating to nurse aides.

(b) *Burden of proof.* A person who appeals under par. (a) 3. shall bear the burden of proving, by a preponderance of the evidence, that the agency or tribe abused its discretion in deciding that the person did not show sufficient evidence to support rehabilitation approval.

(c) *Review panel decision distribution.* The review panel shall send its decision to the requester and a copy, if appropriate, to the entity. If the agency conducting the rehabilitation review is other than the department or a tribe, the review panel shall also, within 10 days of sending its decision, send a completed copy of the department's required reporting form regarding any rehabilitation decision to the department. If the entity conducting the rehabilitation review is a tribe, the review panel shall also send a copy of the decision to the same address accompanied by a copy of the requester's application materials.

Note: Rehabilitation decisions should be addressed to the Office of Legal Counsel, Department of Health Services, P. O. Box 7850, 1 W. Wilson St., Room 651, Madison, WI 53707-7850.

(d) *Maintaining rehabilitation decision documentation.* The review panel shall maintain a file containing a copy of the original written decision and any decisions from filed appeals that may result. The agency or tribe shall maintain in the file the rehabilitation review request and all materials or information obtained or notes made as part of the rehabilitation review decision.

(6) REHABILITATION APPROVAL COMPLIANCE AND WITHDRAWALS.

(a) *Approval conditions.* A person who receives rehabilitation approval shall comply with all conditions and limitations imposed with that approval.

(b) *Rehabilitation approval violation--mandatory withdrawal.* An agency or tribe that has granted a person a rehabilitation approval shall withdraw the approval if the agency or tribe learns that the person is no longer eligible under s. 50.065 (4m) (a) or (b), or 48.685 (4m) (a) or (b), Stats., for regulatory approval, to be employed as a caregiver, or to contract with or reside at an entity.

(c) *Rehabilitation approval violation--summary suspension.* An agency or tribe that granted a person a rehabilitation approval may immediately temporarily rescind the rehabilitation approval when the agency or tribe has knowledge that the person has done either of the following: 1. The person has failed to comply with or abide by any conditions or limitations imposed with the rehabilitation approval.

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2. The person knowingly submitted false information or withheld pertinent information relevant to the rehabilitation request that otherwise could or would have affected the review panel's decision to grant the rehabilitation approval.

(d) *Informing agencies or tribes.* An agency, entity or tribe other than the agency or tribe that granted a rehabilitation approval, that becomes aware that any person has violated his or her rehabilitation approval under par. (b) or (c), shall inform the agency or tribe that granted the approval, of the violation.

(e) *Review of summary suspensions.* 1. Within 10 working days of temporarily rescinding a rehabilitation approval under par.

(c), the approving agency or tribe shall determine whether the new information related to an approval violation under par. (c) is valid and represents a risk of harm to the client. If the new information is valid and does represent a risk of harm to the client, the approving agency or tribe shall withdraw the rehabilitation approval, thereby re-imposing, as applicable, the person's bar from regulatory approval, from employment as a caregiver or from contracting with or residing at an entity.

2. An agency, entity, or tribe, as applicable, that determines the new information related to an approval violation under par. (c) represents a risk of harm to a client shall also immediately take appropriate measures to protect clients until any appeal filed under par. (g) is exhausted.

Appropriate measures may include a repeal of regulatory approval, termination of employment as a caregiver or of approval to reside at an entity, contract termination, reassigning the person away from duties involving direct regular contact with clients or placing the person on temporary leave.

(f) *Withdrawal decisions.* When an agency or tribe withdraws a rehabilitation approval, it shall issue a written decision to that effect. The decision shall explain the reasons for the withdrawal and inform the requester whether he or she may appeal under par. (g).

(g) *Appeal rights.* Any person who has his or her rehabilitation approval withdrawn under par. (c) may file an appeal of this decision as provided in sub. (5) (a).

(h) *Withdrawal reporting.* When an agency or tribe that granted a rehabilitation approval withdraws the approval, and the withdrawal results in a bar to regulatory approval, to eligibility to work as a caregiver, or to contracting with or residing at an entity, the approving agency or tribe shall immediately report the withdrawal to the subunit of the department responsible for collecting this information.

Note: Send reports of withdrawn rehabilitation approval to: Office of Legal Counsel, Department of Health Services, P. O. Box 7850, 1 West Wilson Street, Room 651, Madison, WI 53707-7850.

(7) SCOPE OF AGENCY OR TRIBE REHABILITATION APPROVAL. (a) *Agency approval limitations.* An agency may grant rehabilitation approval only within the scope of its regulatory authority. The approval applies to all types of entities, job activities and functions the agency regulates, unless the agency specifies otherwise in the form of limitations or conditions expressed in the written rehabilitation approval decision.

(b) *Tribe approval limitations.* A tribe may only grant rehabilitation approvals within the scope of its own employment, contracting, or licensing authority.

(c) *Rehabilitation approval transfers.* 1. When an agency, tribe, or entity learns from the department's background information disclosure form or in any other way that an applicant for regulatory approval, for employment as a caregiver, or for a contract with or permission to reside at an entity has had a rehabilitation review, the agency, tribe, or entity shall request from the rehabilitation review agency or tribe a copy of the rehabilitation review decision. If the rehabilitation review decision was an approval, the agency, tribe or entity shall determine whether the approval may be applied to the regulatory approval, employment as a caregiver, or contract with or residency at an entity that the applicant currently seeks.

2. Except as specified in subd. 3., an agency, entity, or tribe may review and accept a rehabilitation granted to a person by another agency or tribe if the receiving agency or tribe determines both of the following:

a. The crime, act, or offense that required the person to request rehabilitation review is not substantially related to the person's job duties.

b. Any limitations or conditions imposed with the rehabilitation approval continue to be able to be met.

3. No rehabilitation approval granted by a tribe may be transferred outside of the tribe's employment or contracting authority.

4. Before transferring a rehabilitation approval under subd. 1., an agency, tribe, or entity shall verify with the department that the applicant has had a rehabilitation review, and if so, the date and status of that review and whether any reason other than the one the applicant reported on the background information disclosure form exists that requires the applicant to request a rehabilitation review.

5. If the decision of the agency or tribe that conducted the rehabilitation review is to deny approval of transferring the rehabilitation approval, the agency, entity, or tribe shall determine whether the applicant for regulatory approval, for employment as a caregiver, or for contracting with or residency at an entity is eligible to seek another rehabilitation review under sub. (2), and if so, shall inform the person of his or her eligibility.

Note: Examples of circumstances in which approvals may or may not be transferable include the following:

1. An approval to be a foster parent by one county or child-placing agency is not, unless approved by the other county or child-placing agency, transferable to the other county or child-placing agency.

2. An approval by the department for a person to work as a shipping clerk in a hospital or nursing home would be transferable to another entity or job function or activity regulated under ch. 50, Stats., as long as limitations or conditions, if any, imposed with the rehabilitation approval are able to be met.

3. A rehabilitation approval for employment at a children's day care or a child caring institution is not transferable to a hospital or nursing home or vice versa.

4. A rehabilitation approval is not transferable from a group day care center to a family day care center if the department's rehabilitation approval imposed limits or conditions.

5. A rehabilitation approval is transferable from one department-regulated child care residential setting to another as long as any limitations or conditions can be met.

WISCONSIN ADMINISTRATIVE CODE
 APPENDIX G continued
CHAPTER DHS 12
APPENDIX A
OFFENSES AFFECTING CAREGIVER ELIGIBILITY
SEPTEMBER, 2000
INTRODUCTION

This document lists Wisconsin crimes and other offenses that the Wisconsin State Legislature, under the Caregiver Law, ss. 48.685 and 50.065, Stats., has determined either require rehabilitation review approval before a person may receive regulatory approval, may work as a caregiver, may reside as a nonclient resident at or contract with an entity, or that act to permanently bar a person from receiving regulatory approval to be a foster parent.

Note: This table reflects changes in the caregiver law made by 1999 Wisconsin Act 9.

If a person has been convicted of a crime in another state or jurisdiction, the entity or regulatory agency must locate on the table below the Wisconsin crime that is identical or most similar to the crime for which the person was convicted and apply the consequence identified. This instruction also applies if the person was convicted in Wisconsin, but the statute number or crime title has been changed or amended. For example, convictions under Chapter 961, the Uniform Controlled Substances Act, were previously convictions under Chapter 161.

Notwithstanding s. 111.335, Stats., ss. 48.685 (5m) and 50.065 (5m), Stats., permit a regulatory agency to deny regulatory approval or an entity to refuse to employ, contract with or permit to reside at the entity a person whom the regulatory agency or entity determines has been convicted of a crime that is “substantially related” to the care of a client. The agency or entity may review a conviction to make that determination when: (a) The person has been convicted in Wisconsin or another state or jurisdiction of any crime that is not listed in this appendix; or (b) The person has been convicted of a crime that is listed in part III. of this appendix for foster care purposes only.

Under the Caregiver Law, current limitations on a person’s professional credentials may limit the person’s eligibility for employment or licensure in a position for which the person must be credentialed by the department of regulation and licensing.

If a Background Information Disclosure form, a caregiver background check, or any other information shows that a person was convicted of any of the offenses immediately below within 5 years before the information was obtained, the department, county department, child welfare agency, school board, or entity, as applicable, shall make every reasonable effort to contact the clerk of courts to obtain a copy of the criminal complaint and judgment of conviction relating to that conviction.

- 940.19 (1) Misdemeanor battery
- 940.195 Battery to an unborn child
- 940.20 Battery, special circumstances
- 941.30 Reckless endangerment
- 942.08 Invasion of privacy
- 947.01 Disorderly conduct
- 947.013 Harassment

APPENDIX G continued

I. Entities and Programs Serving Only Persons 18 Years of Age or Older

| CONVICTIONS | |
|---|---|
| Regulatory approval, employment as a caregiver, and nonclient residency at or contracting with an entity are prohibited until rehabilitation approval is received, for all programs and entities that serve only clients 18 years of age or older. | |
| Wis. Stats. | Crime |
| 940.01 | First degree intentional homicide |
| 940.02 | 1st degree reckless homicide |
| 940.03 | Felony murder |
| 940.05 | 2nd degree intentional homicide |
| 940.12 | Assisting suicide |
| 940.19 (2) through (6) | Battery (felony) |
| 940.22 (2) or (3) | Sexual exploitation by therapist; duty to report |
| 940.225 (1), (2), or (3) | 1st, 2nd, or 3rd degree sexual assault |
| 940.285 | Abuse of vulnerable adults (misdemeanor or felony) |
| 940.29 | Abuse of residents of a penal facility |
| 940.295 | Abuse or neglect of patients and residents (misdemeanor or felony) |
| 948.02 (1) | 1st degree sexual assault of a child |
| 948.025 | Repeated acts of sexual assault of a child |
| 948.03 (2) (a) | Physical abuse of a child – intentional – cause great bodily harm |
| OTHER OFFENSES | |
| --- | Finding by a governmental agency of neglect or abuse of a client, or of misappropriation of a client's property |
| --- | Finding by a governmental agency of child abuse or neglect |

II. Entities and Programs Serving Any Clients Under the Age of 18

| CONVICTIONS | |
|--|---|
| Regulatory approval, employment as a caregiver, and nonclient residency at and contracting with an entity are prohibited until rehabilitation approval is received, for all entities and programs that serve any clients who are under the age of 18. (For additional federal foster care bars, see part III. below.) | |
| Wis. Stats. | Crime |
| 940.01 | First degree intentional homicide |
| 940.02 | 1st degree reckless homicide |
| 940.03 | Felony murder |
| 940.05 | 2nd degree intentional homicide |
| 940.12 | Assisting suicide |
| 940.19 (2) through (6) | Battery (felony) |
| 940.22 (2) or (3) | Sexual exploitation by therapist; duty to report |
| 940.225 (1), (2), or (3) | 1st, 2nd, or 3rd degree sexual assault |
| 940.285 | Abuse of vulnerable adults (misdemeanor or felony) |
| 940.29 | Abuse of residents of a penal facility |
| 940.295 | Abuse or neglect of patients & residents (misdemeanor or felony) |
| 948.02 (1) or (2) | 1st or 2nd degree sexual assault of a child |
| 948.025 | Repeated acts of sexual assault of same child |
| 948.03 (2) (a), (b), or (c) | Physical abuse of a child – intentional causation of bodily harm |
| 948.05 | Sexual exploitation of a child |
| 948.055 | Causing a child to view or listen to sexual activity |
| 948.06 | Incest with a child |
| 948.07 | Child enticement |
| 948.08 | Soliciting a child for prostitution |
| 948.11 (2)(a) or (am) | Exposing child to harmful material or harmful descriptions or narrations (felony) |
| 948.12 | Possession of child pornography |
| 948.13 | Child sex offender working with children |
| 948.21 (1) | Neglect of a child – resulting in death (felony) |
| 948.30 | Abduction of another's child; constructive custody |
| OTHER OFFENSES | |
| --- | Finding by a governmental agency of neglect or abuse of a client, or of misappropriation of a client's property |
| --- | Finding by a governmental agency of child abuse or neglect |

III. Foster Care

| CONVICTIONS | | |
|--|---|-------------------------------|
| By federal or state law, for Foster Homes and Treatment Foster Homes , regulatory approval, employment as a caregiver, and nonclient residency at and contracting with an entity are barred as follows: | | |
| Permanent bar = Conviction acts as permanent bar. | | |
| Spouse = Permanent bar applies when spouse was the victim in the offense. | | |
| 5 years = Bar is for 5 years from time crime committed. | | |
| Spouse / 5 years / R = If spouse was the victim, bar is permanent. In other cases, bar is for 5 years from time crime committed; then must show rehabilitation. | | |
| Spouse / 5 years = If spouse was the victim, bar is permanent. In other cases, bar is for 5 years from time crime committed. | | |
| Bar w/ rehab = Regulatory approval, employment as a caregiver, and nonclient residency at and contracting with an entity are barred until rehabilitation approval is received. | | |
| Wis. Stats. | Crime | Federal law / Foster Care Bar |
| 940.01 | First degree intentional homicide | Permanent bar |
| 940.02 | 1st degree reckless homicide | Permanent bar |
| 940.03 | Felony murder | Permanent bar |
| 940.05 | 2nd degree intentional homicide | Permanent bar |
| 940.06 | 2nd degree reckless homicide | Permanent bar |
| 940.12 | Assisting suicide | Bar w/ rehab |
| 940.19 (2) through (6) | Battery (felony) | Spouse / 5 years / R |
| 940.20 | Battery – special circumstances | 5 years |
| 940.20 (1) or (1m) | Battery – special circumstances | Spouse |
| 940.203 | Battery or threat to judge | 5 years |
| 940.205 | Battery or threat to a Department of Revenue employee | 5 years |
| 940.207 | Battery or threat to a Department of Commerce or DWD employee | 5 years |
| 940.21 | Mayhem | Permanent bar |
| 940.22 (2) or (3) | Sexual exploitation by therapist; duty to report | Bar w/ rehab |
| 940.225 (1), (2), or (3) | 1st, 2nd, or 3rd degree sexual assault | Permanent bar |
| 940.23 | Reckless injury | Permanent bar |
| 940.285 | Abuse of vulnerable adults (misdemeanor or felony) | Bar w/ rehab |
| 940.29 | Abuse of residents of a penal facility | Bar w/ rehab |
| 940.295 | Abuse or neglect of patients or residents (misdemeanor or felony) | Bar w/ rehab |
| 940.305 | Taking hostages | Permanent bar |
| 940.31 | Kidnapping | Permanent bar |
| 941.20 (2) or (3) | Endangers safety by use of a dangerous weapon | Permanent bar |
| 941.21 | Disarming a peace officer | Permanent bar |
| 943.10(2) | Burglary while armed | Permanent bar |
| 943.23 (1g), (1m) or (1r) | Operating motor vehicle without owner's consent (OMVWOC) | Permanent bar |
| 943.32 (2) | Robbery with dangerous weapon | Permanent bar |
| 948.02 (1), (2), (3), or (3m) | 1st or 2nd degree sexual assault of a child; failure to act; penalty enhancement | Permanent bar |
| 948.025 | Repeated acts of sexual assault of a child | Permanent bar |
| 948.03 (2), (3), or (4) | Physical abuse of a child | Permanent bar |
| 948.04 | Causing mental harm to a child | Permanent bar |
| 948.05 | Sexual exploitation of a child | Permanent bar |
| 948.055 | Causing a child to view or listen to sexual activity | Permanent bar |
| 948.06 | Incest with a child | Permanent bar |
| 948.07 | Child enticement | Permanent bar |
| 948.08 | Soliciting a child for prostitution | Permanent bar |
| 948.095 | Sexual assault of student by school staff | Permanent bar |
| 948.11 (2) (a) or (am) | Exposing child to harmful material or harmful descriptions or narrations (felony) | Permanent bar |
| 948.12 | Possession of child pornography | Permanent bar |
| 948.13 | Child sex offender working with children | Permanent bar |
| 948.20 | Abandonment of a child | Permanent bar |
| 948.21 (1) | Neglect of a child – resulting in death (felony) | Permanent bar |
| 948.22 | Failure to support (felony) | Permanent bar |
| 948.23 | Concealing death of a child | Permanent bar |
| 948.24 | Unauthorized placement for adoption | Permanent bar |

III. Foster Care – Continued

| CONVICTIONS | | |
|-----------------------|---|-------------------------------|
| Wis. Stats. | Crime | Federal law / Foster Care Bar |
| 948.30 | Abduction of another's child; constructive custody | Permanent bar |
| 948.31 | Interference with custody by parent or others | Permanent bar |
| 948.35 | Solicitation of a child to commit a felony | Permanent bar |
| 948.36 | Use of a child to commit a class A felony | Permanent bar |
| 948.40 | Contributing to the delinquency of a minor (felony) | Permanent bar |
| 948.51 | Hazing (felony) | Permanent bar |
| 948.60 | Possession of a dangerous weapon by a person under 18 (felony) | Permanent bar |
| 948.605 (3) | Gun-free school zones; discharge of firearm in a school zone (felony) | Permanent bar |
| 948.61 | Dangerous weapons other than firearms on school premises (felony) | Permanent bar |
| 948.62 | Receiving stolen property from a child (felony) | Permanent bar |
| --- | All other Chapter 948 crimes that are felonies | Permanent bar |
| 961.41 (1) | Manufacture, distribution or delivery (felony) | 5 years |
| 961.41 (1m) | Possession with intent to manufacture, distribute, or deliver (felony) | 5 years |
| 961.41 (3g) | Possession (felony) | 5 years |
| 961.43 (1)(a) | Acquire or obtain possession of controlled substances by fraud, misrepresentation, or forgery, deception, or subterfuge (felony) | 5 years |
| 961.43 (1)(b) | To possess/make a counterfeit substance or to duplicate the appearance, packaging, form or label of a controlled substance (felony) | 5 years |
| 961.455 | Using a child for illegal drug distribution or manufacturing purposes (felony) | 5 years |
| 961.46 | Distribution to persons under 18 (felony) | 5 years |
| 961.465 | Distribution to prisoners | 5 years |
| 961.49 | Distribution of or possession with intent to deliver at or near certain places | 5 years |
| 961.492 | Distribution of or possession with intent to deliver on public transit (felony) | 5 years |
| --- | All other ch. 961 offenses that are felonies | 5 years |
| OTHER OFFENSES | | |
| --- | Finding by a governmental agency of neglect or abuse of a client, or of misappropriation of a client's property | Bar w/ rehab |
| --- | Finding by a governmental agency of child abuse or neglect | Bar w/ rehab |

APPENDIX I**INSTRUCTIONS FOR OBTAINING DEPARTMENT FORMS
FOR FAMILY CHILD CARE CENTERS**

The department forms listed below are arranged in two categories: 1) those that the department requires family child care centers to use are designated as “REQUIRED” and shall be used by licensees; and 2) those that the family child care center may use, at their option, if they do not have their own forms on which to record information required by the licensing rules.

Applicants and licensees may obtain copies of these forms from the department’s website <http://www.dcf.wisconsin.gov/childcare/licensed/Forms.htm>. Forms on the website will require use of Microsoft Word or Adobe Acrobat to view. The forms may be reproduced as needed. Several forms listed below have been translated in to Spanish, Hmong and Russian and are also available from our website.

If you do not have internet access, or if you want to request a form from the department, contact your regional licensing office listed in Appendix A.

| FORM TITLE | REQUIRED |
|--|-----------------|
| Alternate Arrival / Release Agreement – Child Care Centers | |
| Authorization to Administer Medication – Child Care Centers | YES |
| Background Information Disclosure | YES |
| Building Inspection Report – Child Care Centers | |
| Child Care Enrollment | YES |
| Child Health Report – Child Care Centers | YES |
| Child Record Checklist – Child Care Centers | |
| Continuing Education Record – Independent Reading / Video Viewing | |
| Daily Attendance Record – Child Care Centers | YES |
| Day Care Immunization Record | |
| Field Trip or Other Activity Notification / Permission – Child Care Centers | |
| Fire Safety and Emergency Response Documentation – Family Child Care Centers | |
| Health History and Emergency Care Plan | YES |
| Incident Report – Child Care Centers | |
| Informed Consent for Observation or Testing By Outside Agency | |
| Intake for Child Under 2 Years – Child Care Centers | YES |
| Licensing Checklist – Family Child Care Centers | |
| Policy Checklist – Family Child Care Centers | YES |
| Request for Exception | |
| Staff and Child Identification Key | |
| Staff Continuing Education Record – Child Care Centers | |
| Staff Health Report – Child Care Provider | YES |
| Staff Orientation Checklist – Family Child Care Centers | YES |
| Staff Record – Child Care Centers | YES |
| Staff Record Checklist – Family Child Care Centers | |
| Transportation Permission – Child Care Centers | |
| Vehicle Safety Inspection | YES |

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