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Department of Children and Families

Report From Agency

Rule Report for Legislative Review

Proposed Rules Relating to Child Care Centers Chapters HFS 45, 46, and 55 CR 07-102

Basis and Purpose of the Proposed Rules

Section 48.67, Stats. gives the Department authority to establish by rule, minimum requirements and standards of operation for day care centers. These standards are codified in chs. HFS 45, 46 and 55. Chapter HFS 45 governs Family Child Care Centers licensed to care for between four and eight children. Chapter HFS 46 governs Group Child Care Centers licensed to care for nine or more children, and ch. HFS 55 governs day camps that provide a seasonal program for four or more children under age seven.

2005 Wisconsin Act 165 revised s. 48.67, Stats., to require licensees and employees in child care centers licensed to care for child under age five to receive training in shaken baby syndrome prevention. 2007 Wisconsin Act 104 requires that all child care licensees and employees providing care to children have proficiency in the use of an automated external defibrillator which is achieved through instruction provided by an individual, organization or institution of higher education that is approved by the department. 2005 Wisconsin Act 184 prohibits a person from leaving a child transported in a vehicle that is owned or leased by a child care provider or used to transport children to and from a child care provider.

The proposed rules amend chs. HFS 45, 46, and 55 to conform to the new statutory requirements and also make other updates and clarifications, including:

- Oversight requirements for a family child care licensee who does not provide care and supervision for at least 50% of the hours of the center's operation.
- Outdoor play space must have a permanent enclosure not less than 4 feet high. This proposal is consistent with national safety standards for child care settings. Providers will have one year from the effective date of the rule to comply with this requirement.
- Training requirements for directors of group child care centers. The proposed rule requires directors of a group child care center with more than 50 children to obtain a child care administrator's credential within 3 years. Directors of a group center with fewer than 50 children must take one course of the child care administrator credential. Directors who have an associate's or bachelor's degree in early childhood education or comparable qualifications designated by the Registry will be exempt. Current

research shows that the quality of child care provided is higher when center directors have higher educational levels.

Public Hearing Summary

Public hearings were held on December 3, 2007, in Milwaukee and on December 10, 2007, in Wausau. A summary of the public comments and the Department's responses is attached.

Response to Legislative Council Staff Recommendations

All comments were accepted.

Changes to Analysis Prepared under Section 227.14 (2), Stats.

- The analysis was updated to reflect the transfer of agency authority from the Department of Health and Family Services to the Department of Children and Families.
- In the initial proposed rulemaking order, the Department proposed to revise the definition of "family child care center" under HFS 45 to limit a family child care licensee to a program that is operated by the licensee in the licensee's residence. Based on comments received during the public comment period, the Department withdrew this proposal. Instead, the Department is proposing new oversight requirements for a family child care licensee if the licensee is not providing care to children in for at least 50% of the center's licensed hours of operation. The rule analysis and fiscal estimate were revised to reflect this change.
- 2007 Wisconsin Act 104 revised s. 48.67, Stats., to require that persons working in a child care center who are required to have cardiopulmonary resuscitation also have proficiency in the use of an automated external defibrillator from an agency approved by the department. The rules and the rule analysis were amended to incorporate this new requirement.
- A proposal to amend ch. HFS 46 to limit the maximum group size of school age children to 32 children with 2 adults was withdrawn.
- The training requirements for staff in a group child care center were reorganized and clarified.

Final Regulatory Flexibility Analysis

The Department appeared before the Small Business Regulatory Review Board on January 8, 2008. A copy of the Department's report and the Board response is attached. The fiscal estimate also has a summary of the fiscal effect of the proposed rules on the private sector.

Most child care licensees are small businesses under the definition in s. 227.114 (1), Stats. A summary of comments by small businesses and the department's responses are in the hearing summary.

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