

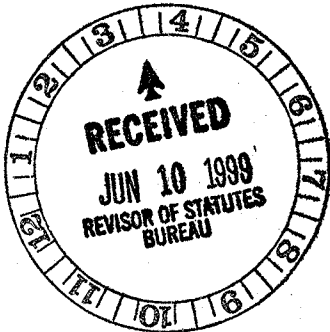
Rules Certificate

STATE OF WISCONSIN)
) SS
DEPARTMENT OF WORKFORCE DEVELOPMENT)

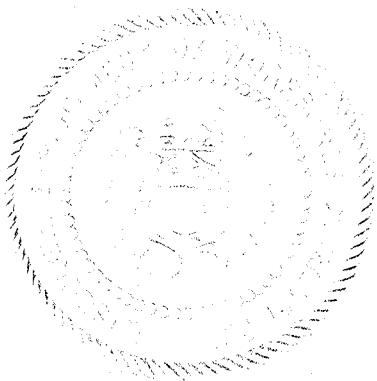
I, Linda Stewart, Secretary of the Department of Workforce Development, and custodian of the official records, certify that the annexed rules, relating to Day Care Certification, were duly approved and adopted by this department on June 10, 1999.

I further certify that this copy has been compared by me with the original on file in this department and that it is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the of the Department of Workforce Development at 201 E. Washington Avenue in the city of Madison, this 10th day of June 1999.



Linda Stewart
Secretary



8-1-99
Q8204

Order Adopting Rules

Pursuant to authority vested in the Department of Workforce Development by section(s)

49.155(1m)(d), Stats., the Department of Workforce Development creates; amends;

repeals and recreates; repeals and adopts rules of Wisconsin Administrative Code

chapter(s):

DWD 55

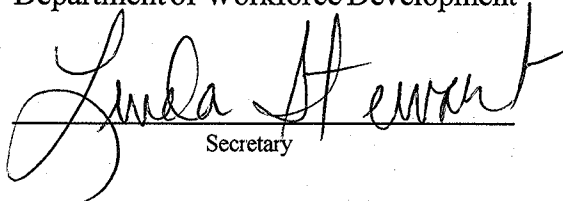
Day Care Certification

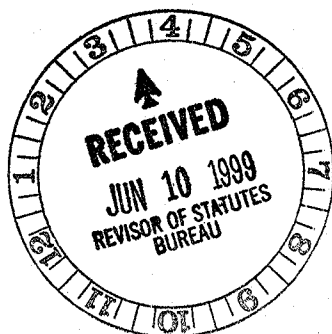
The attached rules shall take effect on August 1, 1999 pursuant to section 227.22, Stats.

Adopted at Madison, Wisconsin this

date June 10, 1999

Department of Workforce Development


Secretary



State of Wisconsin

Department of Workforce Development

DAY CARE CERTIFICATION

The Wisconsin Department of Workforce Development proposes an order to: repeal HFS 55.80 and 55.81; renumber HFS 55.55 to 55.62; amend DWD 55.02(4) and (22), 55.03(2)(c), 55.04(2)(a) and (b), (3)(c), (d)1. and 2., (5)(a) and (b), (7)(a) and (b)1. and (8), 55.08(3), and 55.09(2)(e)1.; repeal and recreate DWD 55.02(1) and 55.05; and create DWD 55.04(9), 55.08(2)(n) and (5)(i), and 55.09(5)(g) and (6)(f), relating to criminal record background checks for certified day care operators, employes and contractors of certified day care operators, and nonclient residents at certified day care locations.

Analysis

Authority for rule. secs. 48.651 and 49.155(1d), Stats.

Statute interpreted. secs. 48.651, 48.685 and 49.155(1d), Stats.

In accordance with the statutes cited above and administrative rules adopted by the Department of Health and Family Services under sec. 48.685, Stats., the Department of Workforce Development adopts this rule to provide guidance for county agencies and certified day care operators in complying with the background review requirements of sec. 48.685, Stats.

The rule provides that county agencies shall follow the provisions of ch. HFS 12, Wis. Adm. Code, in obtaining background information and conducting background reviews under sec. 48.685, Stats. This includes following the same requirements for obtaining background information and for evaluating the information in accordance with the crimes list created as an attachment to ch. HFS 12. County agencies are required to apply the same standards to certified day care operators as ch. HFS 12 applies to licensed day care centers. The same standards may also apply to employes, contractors, and nonclient residents.

In accordance with sec. 48.685, Stats., the background review requirements apply to new certified day care operators effective October 1, 1998, and to existing certified day care operators effective October 1, 1999. A county agency is not required to bar an certified day care operator or other affected person who meets the eligibility requirements and has submitted a rehabilitation review request that has not been decided by October 1, 1999, until the agency has completed its consideration of the rehabilitation review request.

Other standards. The proposed rule amends the standards for certified day care to provide that smoking shall be prohibited in any indoor or outdoor area in which children are present and to

require that the day care provider keep a written record of the daily hours of attendance of each child in care.

Other provisions. Obsolete rule provisions relating to child care start-up grants are repealed.

SECTION 1. HFS 55.55 to 55.62 are renumbered to DWD 55.01 to 55.09.

SECTION 2. HFS 55.80 and 55.81 are repealed.

SECTION 3. DWD 55.02(1) is repealed and recreated to read:

DWD 55.02(1) "Agency" has the same meaning as "county agency."

SECTION 4. DWD 55.02(4) is amended to read:

DWD 55.02(4) "County agency" 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. 46.23, Stats., and includes a tribal agency.

SECTION 5. DWD 55.02(22) is amended to read:

DWD 55.02(22) "Wisconsin works participant" or "W-2 participant" means an individual participating in the Wisconsin works program ~~for families with dependent children~~ administered under ss. 49.141 to 49.161, Stats.

SECTION 6. DWD 55.03(2)(c) is amended to read:

DWD 55.03(2)(c) The care permits a ~~Job Opportunities and Basic Skills (JOBS) program enrollee~~ Wisconsin works applicant to attend a ~~JOBS program~~ participate in job search, training or orientation under s. 49.147(2)(a), Stats., prior to the development of an employability plan ~~under s. 49.193 (4), Stats., approved by a JOBS administrative.~~

SECTION 7. DWD 55.04(2)(a) and (b), (3)(c), (d)1. and 2., (5)(a) and (b), (7)(a) and (b)1., and (8) are amended to read:

DWD 55.04(2)(a) Family day care and in-home providers are required to meet the standards under s. ~~HFS 55.61~~ DWD 55.08 and may care for preschool children or school-age children or a combination of preschool and school-age children consistent with Table ~~55.61 (6)~~ 55.08(6).

(b) School-age day care programs are required to meet the standards under s. ~~HFS 55.62~~ DWD 55.09.

(3)(c) The applicant shall ~~submit a completed notarized background character verification form for each provider, employe, prospective employe, substitute or adult living in the provider's home~~ comply with the background information requirements of s. 48.685, Stats.

(3)(d)1. If the application is for certification under sub. (2)(a), the county or tribal agency shall review the application for compliance with standards under s. ~~HFS 55.61~~ DWD 55.08 prior to issuing a certificate.

2. If the application is for certification under sub. (2)(b), the county or tribal agency shall refer the application to a licensing representative in the department of health and family services regional office. The licensing representative shall determine whether the applicant is in compliance with all standards under s. ~~HFS 55.62~~ DWD 55.09 and report back to the county or tribal agency. The county or tribal agency may issue a certificate based on the licensing representative's report.

(5)(a) Level I ~~(, or regular),~~ certification may be issued only after the provider has demonstrated compliance with all certification standards including training. Level I ~~(, or regular),~~ certification shall be for a period of 2 years and shall be renewed upon application if the provider continues to comply with the certification standards under s. ~~HFS 55.61 or 55.62~~ DWD 55.08 or

55.09. A provider is not eligible to be issued Level I (~~or regular~~) certification if the provider is related to all the children in the provider's care.

(b) Level II (~~or provisional~~) certification may be issued only after the provider has demonstrated compliance with all certification standards under s. ~~HFS 55.61~~ DWD 55.08, except standards for training under s. ~~HFS 55.61 (1) (b)~~ DWD 55.08(1)(b). Level II (~~or provisional~~) certification shall be for a period of 2 years and shall be renewed upon application if the provider continues to comply with the certification standards, except standards for training under s. ~~HFS 55.61 (1) (b)~~ DWD 55.08(1)(b).

(7)(a) County and tribal agencies shall maintain records demonstrating provider compliance with s. ~~HFS 55.61(1)~~ DWD 55.08(1).

(b)1. County and tribal agencies shall help assure provider compliance with s. ~~HFS 55.61 (2) to (12)~~ DWD 55.08 (2) to (12) in accordance with this paragraph.

(8) A county or tribal agency may grant an exception to any standard in s. ~~HFS 55.61 or 55.62~~ DWD 55.08 or 55.09 if the county or tribal agency determines that an alternative means meets the intent of the requirement, except for rules related to criminal background investigation required under s. ~~48.651 (2)~~ 48.685, Stats.

SECTION 8. DWD 55.04(9) is created to read:

DWD 55.04(9) CERTIFICATION DECISION AFTER BACKGROUND REVIEW.

The county agency shall conduct background reviews in accordance with s. 48.685, Stats. For guidance in resolving issues that arise in particular cases, the county agency shall follow ch. HFS 12, Wis. Adm. Code, and the crimes table incorporated into CH. HFS 12, Wis. Adm. Code, and shall apply the standards which apply to licensed day care facilities.

SECTION 9. DWD 55.05 is repealed and recreated to read:

DWD 55.05 Criminal history and child abuse record search. (1) The county agency shall follow the requirements for criminal history and child abuse record search that are contained in s. 48.685, Stats., and ch. HFS 12, Wis. Adm. Code, and the crimes table incorporated into ch. HFS 12, Wis. Adm. Code, and shall apply the standards which apply to licensed day care facilities, except the county agency shall require any prospective or current employe, contractor under the control of the certified day care provider, or nonclient resident who has or is expected to have access to clients to submit the completed background information form to the county agency. In applying the provisions relating to rehabilitation decisions, all decisions and review procedures shall be made and conducted by the county agency.

NOTE: Detailed information on ch. HFS 12, Wis. Adm. Code, may be obtained by calling the Office of Child Care at (608) 266-9703 or by sending a written request to the Office of Child Care at P.O. Box 7935, Madison WI 53707. In addition, the DHFS requirements are posted by the Department of Health and Family Services at the following web site address: http://www.dhfs.state.wi.us/reg_licens/caregiver/cgindex.html.

(2) Each county agency shall maintain its records concerning each person who is denied a certificate due to the review of background information. The county shall immediately report the receipt of an application for rehabilitation review and the results of each rehabilitation review to the office of legal counsel of the department of health and family services.

(3) A county agency need not bar and may continue the regulatory approval of a certified day care operator, employe, contractor or nonclient resident beyond October 1, 1999, until a favorable rehabilitation review decision has been reached by the agency and all of the following are met:

(a) The certified day care operator or person has submitted a completed rehabilitation review request form prior to October 1, 1999, to the agency that must review the rehabilitation request.

(b) Except for any required waiting period, the certified day care operator or person must show that he or she is otherwise eligible for rehabilitation review.

(c) The certified day care operator or person must have been operating the day care, or have been working for or under contract in the same capacity with the day care, or residing at the day care prior to October 1, 1998.

(d) The person is awaiting rehabilitation review from a county agency and the county agency is unable to complete a rehabilitation review request for the person prior to October 1, 1999.

NOTE: The application for rehabilitation review and the results of the rehabilitation review should be sent to the following address: Office of Legal Counsel, Department of Health and Family Services, 1 W. Wilson St., Room 651, P.O. Box 7850, Madison, WI 53701-7850.

SECTION 10. DWD 55.08(2)(n) is created to read:

DWD 55.08(2)(n) Smoking shall be prohibited in any indoor or outdoor area in which children are present.

SECTION 11. DWD 55.08(3) is amended to read:

DWD 55.08(3) When a provider cares for children in the children's own home, the provider shall comply with requirements in sub. (2) (c), (e), (h), ~~and (L)~~, and (n), but the provider is not required to comply with requirements in sub. (2) (a), (b), (d), (f), (g), (i), (j), (k) and (m).

SECTION 12. DWD 55.08(5)(i) is created to read:

DWD 55.08(5)(i) The provider shall keep a written record of the daily hours of attendance of each child in care.

SECTION 13. DWD 55.08 (6)(d) is amended to read:

DWD 55.08 (6)(d) The maximum number of children that ~~one~~ the provider may care for is shown in Table ~~55.64~~ 55.08 (6) A and B.

SECTION 14. DWD 55.09(e)1. is amended to read:

DWD 55.09(e)1. The name, address, date of birth, education, position names and addresses of employers in previous work experience in child care, address and telephone number of a person to be notified in an emergency, ~~and a statement signed by the employe affirming that he or she has not been convicted or is not the subject of a pending criminal charge as specified under s. HFS 55.59 (1).~~

SECTION 15. DWD 55.09(5)(g) is created to read:

DWD 55.09(5)(g) Smoking shall be prohibited in any indoor or outdoor area in which children are present.

SECTION 16. DWD 55.09(6)(f) is created to read:

DWD 55.09(6)(f) The provider shall keep a written record of the daily hours of attendance of each child in care.

EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s.227.22(2)(intro.), Stats.