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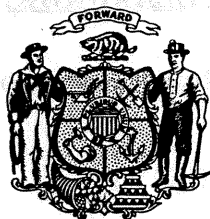
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FORM 2

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 00-020

AN ORDER to repeal chapter HSS 56; and to create chapter HFS 56, relating to foster home care for children.

Submitted by **DEPARTMENT OF HEALTH AND FAMILY SERVICES**

01-27-00 RECEIVED BY LEGISLATIVE COUNCIL.
02-22-00 REPORT SENT TO AGENCY.

RNS:AS:jal;rv

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO

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CLEARINGHOUSE RULE 00-020

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

a. In s. HFS 56.06, because there is no sub. (2), sub. (1) should be s. HFS 56.06 (intro.) and the paragraphs should be renumbered as subsections.

b. In s. HFS 56.09 (4) (f), "No foster parent may" should replace "Under no circumstances may a foster parent." [See s. 1.01 (2), Manual.]

c. In s. HFS 56.11 (3), the information in the subdivision titles should be included in the text of each subdivision because the titles are not part of the substance of the rule. [See s. 1.05 (3) (a), Manual.] In addition, the material in each subdivision following the colon should be included in subdivision paragraphs. Alternatively, the sentences following the colon could be replaced with phrases separated by semi-colons. The material in sub. (3) could also be placed in a separate section.

d. Parenthetical material should not be used in rules. For example, see s. HFS 56.11 (3) (c) 3.

4. Adequacy of References to Related Statutes, Rules and Forms

a. In s. HFS 56.03 (24), "ch. HFS 56 or 38" should be replaced with "this chapter or ch. HFS 38."

- b. In the note to s. HFS 56.08 (7) (a) 3., “ch.” should be replaced with “s.”

5. Clarity, Grammar, Punctuation and Use of Plain Language

- a. Section HFS 56.01 (2) states that a license to operate a foster home does not entitle the holder to placement of children. This should be explained further.

- b. Section HFS 56.02 (2) (b) 2. a. and b. should begin with “The.”

- c. In s. HFS 56.03 (4), “case plan” is defined to mean the permanency plan required under s. 48.38 or 938.38, Stats. However, “permanency plan” is also defined in sub. (29). If there is a distinction between the two plans, it should be indicated. Otherwise, one phrase should be chosen and used throughout the chapter.

- d. In the note to s. HFS 56.03 (18), “head to toe” should be replaced with “head-to-toe.”

- e. In s. HFS 56.03 (29), a hyphen should be inserted between “long” and “term.”

- f. In s. HFS 56.03 (37), the sentence relating to the termination of a voluntary placement agreement should be deleted because it is not definitional.

- g. In s. HFS 56.04 (4) (a) 3., the first sentence should be rewritten to clarify that a request for a waiver may only be made in relation to homeowner’s or renter’s insurance. This comment also applies to par. (b) 3.

- h. In s. HFS 56.04 (4) (a) 8., a hyphen should be inserted between “5” and “year.”

- i. In s. HFS 56.04 (4) (a) 9., “care giver” should be written as one word.

- j. In s. HFS 56.04 (5) (a), “sixty” should be replaced with “60.”

- k. In s. HFS 56.04 (5) (b), it would be clearer if “requirement” were replaced with “time limit.”

- l. In s. HFS 56.05 (1) (a), does “statutory conviction” mean civil or criminal conviction?

- m. In s. HFS 56.05 (1) (b) 1. a., “the child’s strengths” should be replaced with “a child’s strengths.”

- n. In s. HFS 56.05 (1) (b) 1. f., what is meant by “capacity”?

- o. In s. HFS 56.05 (1) (c) 4., “and any change in the work schedule of a foster parent who works outside the home” could be deleted and “or work schedule” could be inserted after “any change in the job.”

p. In s. HFS 56.05 (1) (c) 6., it would be clearer if “and that abuse or neglect of the foster child will likely occur” were replaced with “and it is likely that the foster child will be abused or neglected.”

q. In s. HFS 56.05 (1) (f) 1., the reference to form HFS-60 should be followed by a note.

r. In s. HFS 56.05 (1) (f) 2. (intro.), “meets any of the following conditions” should be inserted at the end of the sentence.

s. In s. HFS 56.07 (5) (c), “when the” should be replaced with “from the date that a.”

t. In s. HFS 56.07 (6) (d) 1., in the last sentence, “the fireplace” should be replaced with “a fireplace.”

u. In s. HFS 56.08 (7) (c), “Agencies” should be replaced with “Licensing agencies.”

v. In s. HFS 56.09 (2) (f), the hyphens in “out-of-state” should be deleted.

w. In s. HFS 56.09 (2) (g), in the last sentence, the comma following “48 hours” should be deleted.

x. In s. HFS 56.09 (10) (c), “is not to be confused with” should be replaced with a phrase such as “does not apply to.”

y. In s. HFS 56.09 (11) (a) 7., it appears that “occurrences and” could be deleted.

z. In s. HFS 56.11 (3) (b) 2., “school work” should be inserted after “make-up.”

aa. In s. HFS 56.12 (8) (b), “in keeping with” should be replaced with “based upon” and “geared” should be replaced with “appropriate.”

**PROPOSED ORDER OF THE
DEPARTMENT OF HEALTH AND FAMILY SERVICES
REPEALING AND CREATING RULES**

8,19,33

To repeal chapter HSS 56 and to create chapter HFS 56, relating to foster home care for children.

Analysis Prepared by the Department of Health and Family Services

This order updates the Department's rules for licensing foster homes for children. Foster parents operating a foster home provide residential care and maintenance for one to 4 children placed in the home, usually under a court order although sometimes by voluntary agreement under s. 48.63, Stats. At the end of 1998, there were approximately 5,200 licensed foster homes in the state, and 8,200 foster children living in those homes. Foster homes are licensed under these rules by county social service and human service departments and by private child-placing agencies licensed by the Department under ch. HFS 54.

The principal changes being made in this updating of rules for licensing foster homes for children are the following:

(1) **Chapter number.** Chapter HSS 56 is renumbered ch. HFS 56 because the Department's name was changed effective July 1, 1996, from Health and Social Services to Health and Family Services.

(2) **Clarifications.** Since September 1990, when the rules were last updated, the Department has compiled a list of the most frequently asked questions that licensing agencies, foster parents and other interested parties have about the rules. In an effort to reduce the need for interpretation, many clarifications are being made in rule language, including adding supplemental information, so that the meaning of requirements is not in question.

(3) **Department Exceptions Panel.** The current rules permit a licensing agency, on written request of a license applicant or licensee, to grant an exception for that person to any nonstatutory requirement in the rules other than several specified requirements. That is continued in the revised rules. But the revised rules establish a three-or-more member Department Exceptions Panel that may grant an exception to any nonstatutory rule requirement for which a licensing agency cannot grant an exception, provided that the licensing agency agrees.

(4) **Information about rate setting and foster parent insurance.** In response to complaints from several foster parents that they have never been told how foster care payment rates are set and that they can request a review of the rate they are being paid and that they have not been informed about the foster parent insurance program, the revised rules add a requirement that a licensing agency at the time of license application or reapplication is to ask the applicant to provide a signed statement indicating that the license applicant has been informed about the

foster care rate structure, including clothing allowances, and the foster parent insurance program.

(5) **Number of children in a foster home.** The rules have been revised to comply with a recent statutory change allowing up to 6 foster children in a foster home if necessary to enable siblings to remain together.

(6) **Modification of license.** The current rules appear to limit when and by whom a request for license modification may be made. The revised rules expressly provide that a license may be modified at any time during the duration of the license and either at the request of the licensee or by direction of the licensing agency.

(7) **Time period for licensing decision.** Currently the rules state that the licensing agency must make its decision about granting a license within 60 days after receiving a completed application. In the revised rules a licensing agency is allowed one 30-day extension if needed to gather additional information necessary for making its decision. Also in the revised rules, an exception to the 60-day limit is made when the application is for a pre-adoptive foster care placement. In that case the licensing agency has until 6 months after receiving a completed application to act on that application, which is consistent with the Department's policy not to issue a license until a potential adoptive child is located for the foster/adoptive parent.

(8) **Discrimination prohibited.** The revised rules add that a licensing agency in issuing foster home and family-operated group home licenses may not discriminate against license applicants on the basis of age, sex, race, color, creed, sexual orientation, national origin or handicap.

(9) **Notification of licensing agency about other licenses.** Many foster parents are currently licensed or certified to provide care to children or adults under other licensure or certification programs, such as day care. Nothing in the current rules requires foster parents to notify the foster care licensing agency about these additional licenses and certifications. The revised rules require that notification.

(10) **Foster parent qualifications.** The current rules pay a great deal of attention to the physical characteristics of the foster home but do not give much attention to qualifications of foster parents apart from the duties that they are assigned. At the request of the licensing agencies and with approval of the state foster parent association, the revised rules have a new paragraph that describes what personal characteristics foster parents should have. The new language is added to provide more guidance to licensing agencies on what characterizes successful foster parents; to provide information to prospective foster parents about where training may be needed; and to provide more qualitative reasons for not granting a license.

(11) **Licensing agency approval for acceptance of children.** A provision is added to the revised rules that a licensed foster parent must have the approval of the licensing agency before accepting children for placement. That provision was in the rules prior to 1990 but was

inadvertently omitted when the rules were revised that year. This enables the licensing agency to exercise some control over how many and what types of children reside in a foster home.

(12) **Mandatory reporting of abuse or neglect of foster children.** Foster parents are not currently mandated under s. 48.981(2), Stats., to report child abuse or neglect. The revised rules require foster parents to notify the licensing or supervising agency, the county social services or human services department or a local law enforcement agency if they believe that a foster child has been abused or neglected, or has been threatened with abuse or neglect and the abuse or neglect will likely occur.

(13) **Definition of physician.** The current rules require foster parents to provide documentation from a physician that they are in good health. In response to numerous inquiries from licensing agencies, the revised rules make clear that what is meant by a physician is an individual possessing the degree of doctor of medicine or doctor of osteopathy or an equivalent degree as determined by the medical examining board, and holding a license granted by the board, but not a physician assistant, a chiropractor or any other health care provider.

(14) **License prohibition if prohibited by statute.** The current rules provide that no license be granted to an applicant who has been convicted of an offense related to taking care of children. In the revised rules there is language that would also deny a license to an applicant who is otherwise prohibited by the new caregiver background check law and implementing administrative rules from being licensed to provide foster care.

(15) **Additional requirements for bathrooms and bedrooms.** The revised rules include several new requirements related to bath and toilet facilities and sleeping arrangements. The new requirements are taken from other licensing rules and from building codes. There have been many questions asked over the years about these subsections in ch. HSS 56 and the answers given have not always been consistent. The changes are meant to answer the most common questions and reduce the need for interpretation.

(16) **Hazardous machinery and equipment.** The current rules impose prohibitions, restrictions and conditions on foster children's use of "hazardous machines." In the revised rules the term is changed to "hazardous machinery and equipment," and the term "power-driven" is deleted from the definition to make clear that machinery and other equipment need not be motorized to be considered hazardous.

(17) **Searches of foster children's belongings.** The current rules are silent about when and under what conditions and following what procedures a foster parent may search a foster child's room, jacket, backpack, etc. Language has been added in the revised rules relating to searches of the private belongings of foster children. This is to ensure that foster children are provided with a minimal and reasonable amount of privacy. Because of several incidents of foster parents destroying clothing, music and other belongings of foster children, the revised rules also include provisions that guarantee that personal possessions cannot permanently be taken away from a child without the permission of the child's social worker. Under no

circumstances may these personal belongings be destroyed. If it is determined that possession of some things are not in a child's best interests, the materials are to be given to the child's parents or retained by the supervising agency until the child leaves foster care.

(18) **Physical confinement.** The current rules prohibit the confinement of foster children in a locked room or closet for punishment. Because of abuses in recent years, this language has been amplified to prohibit using mechanical restraints on a foster child or locking or confining the child in any enclosure, room, closet or other part of the house or premises for any reason whatever.

(19) **Health care for foster children.** The revised rules make the Medical Assistance (Medicaid) HealthCheck program the standard for meeting the medical and dental care needs of foster children.

(20) **Tobacco products.** Responding to statutory changes in recent years relating to possession and use of tobacco products by minors, language has been added in the revised rules to require foster parents to make reasonable efforts to ensure that foster children do not smoke or otherwise use tobacco.

(21) **School attendance.** Rule language has been added which requires foster parents to make efforts to ensure that the foster child attends school or participates in another educational program as required by law and the child's permanency plan. In addition foster parents are directed to make an effort to participate as appropriate in school activities involving the foster child.

The Department's authority to repeal and create these rules is found in ss. 48.62(4), 48.64(4), 48.67 and 48.675(2), Stats. The rules interpret ss. 48.48(9), 48.57(1)(i), 48.61(7), 48.62, 48.625, 48.627, 48.64(4)(a), 48.66, 48.675, 48.68, 48.685, 48.70(1), 48.715, 48.72 and 48.75, Stats., as amended by 1999 Wisconsin Act 9.

SECTION 1. Chapter HFS 56 is created to read:

CHAPTER HFS 56

FOSTER HOME CARE FOR CHILDREN

HFS 56.01	Authority and purpose
HFS 56.02	Applicability
HFS 56.03	Definitions
HFS 56.04	Applying for a license
HFS 56.05	Licensee qualifications
HFS 56.06	Respite care provider qualifications
HFS 56.07	Physical environment
HFS 56.08	Safety
HFS 56.09	Care of foster children
HFS 56.10	Hearing
HFS 56.11	Supplemental payments for special needs, in exceptional circumstances or for initial clothing
HFS 56.12	Foster parent education

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

explain
(2) Although children in need of foster care may not be placed in a home that is not licensed under this chapter, a license to operate a foster home does not entitle the holder to placements of children who need foster care.

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

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

s. HFS 56.07(3)(a), (4)(b), (c), (d), (e), (f), (g) or (h), (5)(a), (6) or (10)(a); s. HFS 56.08(1), (2), (3), (4), (5), (6)(c)1., 2., 3. or 4.a., (7)(a), 3., (8)(a)1. or 2., or (c) or (10); s. HFS 56.09(1), (2)(c), (3), (4)(c) or (d), (5), (9), (11) or (12)(a), (c) or (d); or s. HFS 56.11.

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

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

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

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

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

- a. Name of the applicant or licensee.
- b. Address of the applicant or licensee.
- c. The citation for the specific requirement for which an exception is requested.
- d. The rationale for the request.
- e. An explanation of any alternative provision planned to meet the intent of the requirement.
- f. The signature of the applicant or licensee and the date on which the applicant or licensee signed the request.

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

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

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

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

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

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

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

HFS 56.03 Definitions. In this chapter:

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

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

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

(4) "Case plan" means the permanency plan required under s. 48.38 or 938.38, Stats.

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

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

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

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

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

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

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

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

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

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

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

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

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

machinery or equipment determined by the licensing or supervising agency to be unsafe for a particular foster child to operate.

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

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

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

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

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

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

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

(24) "Licensing agency" means the department, a county agency or a licensed private child-placing agency that might issue a license under ch. HFS 56 or 38.

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

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

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

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

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

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

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

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

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

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

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

(36) "Treatment foster home" means a family-oriented facility operated by a person or persons required to be licensed under s. 48.62(1)(b), Stats., and ch. HFS 38 in which treatment, care and maintenance are provided for no more than 4 foster children. "Treatment foster home" does not include a shift-staffed facility, except as permitted under s. HFS 38.02(2)(d). ✓

(37) "Voluntary placement agreement" means a written contract between a county agency and the child's parent or guardian and the child, if the child is 12 years of age or older, for the placement of the child in a licensed foster home, for a specified length of time not exceeding 6 months. The contract specifically states that it can be terminated at any time by the parent or guardian or by the child, if the child is 12 years of age or older. ✓

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8. The employment history of the applicant. The history shall indicate the length of time the applicant was employed by each employer. The employment history shall document all employment for the 5^{year} period prior to submission of the application for a foster home license, unless the licensing agency has reasonable cause to request employment history for more than 5 years.

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

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

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

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

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

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

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

2. Written authorization for the licensing agency to contact the Wisconsin department of justice or any similar agency in another state, any federal or local law enforcement agency,

any social services agency or any other public or private agency to determine if there is any reason specified under s. 48.685, Stats., or ch. HFS 12, or under s. HFS 56.05(1)(a)3. or any other part of this chapter for the applicant to not be granted a license.

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

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

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

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

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

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

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

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

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

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

d. Within 10 days after a household member leaves.

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

(5) ACTION BY THE LICENSING AGENCY. (a) Except as provided in par. (b) or (c), within 60 days after receiving a completed application for a foster home license, for renewal of the foster home license or for a license modification, the licensing agency shall approve the application and issue the license, deny the application or approve the modification. Any delay that is the result of an act or omission on the part of the applicant shall not be considered in the sixty-day time limit. If the application for a license, relicensure or license modification is denied, the licensing agency shall give the applicant reasons, in writing, for the denial and shall provide information on how an appeal may be requested under s. HFS 56.10.

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

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

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

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

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

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

2. The applicant or licensee shall give truthful and sufficient information to enable the licensing agency to verify whether or not he or she meets the requirements under subd. 1.

Giving false information or withholding relevant information shall constitute grounds for denial or revocation of the license.

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

(b) *Characteristics.* 1. A licensee shall have or exhibit all of the following to a degree that will allow the licensee to adequately provide foster care services:

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

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

c. A satisfactory self-concept.

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

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

f. Parenting ability appropriate to the age, capacity, strengths and weaknesses of foster children to be placed in the licensee's home.

g. A history of positive parenting, if applicable.

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

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

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

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

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

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

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

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

2. Evidence of the existence of the characteristics identified in subd. 1. shall be obtained through interviews with foster family members, the use of formalized assessment systems, communication with references and other mechanisms considered to be effective components of a comprehensive foster home study.

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

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

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

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

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

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

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

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

the child's age, maturity or mental and emotional capacity, or any similar crisis related to a foster child.

6. Immediately notify the supervising agency and the licensing agency, if not the same, and either the county department in the county in which the foster home is located or a local law enforcement agency if the licensee has reasonable cause to believe that a foster child has been abused or neglected, or has been threatened with abuse or neglect and that abuse or neglect of the foster child will likely occur.

7. Cooperate with efforts of the supervising agency to maintain relationships between foster children and their families and with the agency's efforts to implement plans for care and treatment and for arranging a permanent living arrangement as required under s. 48.38, Stats.

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

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

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

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

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

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

(f) *Background.* 1. Before a foster home license is issued or renewed, the applicant for a license or foster parent applying for renewal of a license and any non-client resident of that person's home who is age 12 or older shall complete the department's background information disclosure form, HFS-64, and shall provide written authorization for the licensing agency to make follow-up contact with the Wisconsin department of justice and any other

agency to determine if there is any reason under par. (b) why the applicant should not be granted a license or have an existing license renewed.

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

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

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

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

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

(2) FINANCES. Foster parents shall have a stable income sufficient to meet the foster family's obligations without reliance on the basic maintenance payments received for the care of foster children placed in the foster home. An applicant for a license shall provide the licensing agency with verification of compliance with this subsection.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ch. HFS 1.

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

(d) Within 30 days after receipt of a request that is accompanied by the documentation required under par. (c), the licensing agency shall either waive the requirement or deny the request for a waiver, and shall notify the applicant or foster parent in writing of its decision and the reasons for the decision.

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

HFS 56.06 Respite care provider qualifications. (1) **QUALIFICATIONS.** When a child's foster parent leaves the child for more than 48 hours, or when the licensing or placing agency arranges or pays for any amount of respite care for a foster child, the respite care provider shall meet all of the following conditions:

(a) Be at least 18 years of age and at least 5 years older than any foster child being cared for by the respite provider.

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

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

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

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

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

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

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

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

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

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

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

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

HFS 56.07 Physical environment. (1) GENERAL REQUIREMENTS. (a) A foster home shall be so constructed, arranged and maintained that it is safe for all occupants, and the health of all occupants is safeguarded. The home shall be large enough and its living areas large enough for the number and ages of the foster children and other household members. The home shall have furnishings and equipment necessary to adequately accommodate the foster children and other persons living in the home. The property on which the foster home is situated, including all other buildings and structures on that property, shall be maintained in a state of good repair and in a sanitary condition so that it is safe for the occupants and their health is safeguarded.

(b) The licensing agency shall request fire, health, sanitation or safety officials to inspect the foster home or the entire premises when more expert opinion is necessary to help the agency evaluate the safety of the home. ✓

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

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

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

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

(d) Each bathroom shall be equipped with a window that opens or with an exhaust fan for ventilation.

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

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

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

4. All bed linens shall be changed at least weekly and more often if necessary.

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

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

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

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

9. Triple-decked beds may not be used.

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

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

(d) Each bedroom occupied by a foster child shall have a minimum floor space of 40 square feet per child, except that a licensee issued a foster home license prior to September 1, 1990, may provide a minimum bedroom space of 35 square feet per child.

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

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

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

(h) A responsible care provider shall sleep within call of foster children during the night. An exception may be granted only if the child is at least 16 years of age and the supervising agency gives its approval.

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

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

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

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

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

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

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

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

(b) No foster home may be maintained at any time at a temperature of less than 68° F. (20° C.) during waking hours or 62° F. (17° C.) during sleeping hours unless written approval has been obtained from the licensing agency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. At the head of every open stairway.
2. In each common use room, including every living room, dining room, lounge, family room and recreation room, but not in the kitchen, bathroom and laundry room.
3. In each sleeping room and common areas outside of sleeping rooms.

Note: These smoke detector locations have been determined by a combination of standards found in ch. 2-2.1.1.1 of National Fire Protection Association (NFPA) standard 72, ch. HFS 83.43(4)(b), Stats., and s. Comm 21.09.

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

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

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

1. The means to be used for emergency exiting from all floor levels of the foster home.
2. The place away from the foster home at which all evacuated members of the household shall meet so that it can be determined if all persons are out of danger.

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) Ensures that the child receives needed medical care promptly.

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

(h) Gives the child reasonable opportunity to voluntarily participate in religious practices, activities and services of the child's choice or the choice of the child's parents. Any discrepancy in the child's choice and the choice of the child's parents shall be resolved by the child's case manager.

(i) Permits the child to have a reasonable amount of privacy, including freedom from unreasonable searches of his or her room and personal belongings. Searches may be conducted only after securing approval from and in the presence of the child's social worker or the social worker's designee unless there is evidence that an immediate search is necessary to prevent physical harm to the foster child or another person. A search shall be documented in the foster child's file and shall include the reason for the search, the names of the individuals who conducted the search and the results of the search.

(j) Lets a child keep and wear his or her own clothing as appropriate to the season or setting.

(k) Permits a child to receive mail, to make and to receive a reasonable number of telephone calls and to visit with family, friends and others unless a visit is contraindicated by the child's case plan, by a court order or by another controlling document.

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

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

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

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

(o) Does not permit a child to be mechanically restrained or locked or confined in any enclosure, room, closet or other part of the house or premises for any reason.

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

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

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

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

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

(f) Foster parents shall secure authorization from the supervising agency before taking a foster child out-of-state for a period longer than 24 hours.

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

(h) Foster parents may not regularly provide care for more than 2 children under 2 years of age.

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

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

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

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

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

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

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

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

(e) The foster parents shall ensure that each foster child receives 2 dental examinations and cleanings per year through a HealthCheck program referral.

Note: If private insurance only pays for one dental exam and cleaning per year, the second shall be covered by a referral from a HealthCheck exam.

(f) Foster parents shall make every reasonable effort to ensure that foster children do not smoke or otherwise use tobacco products. Under no circumstances may a foster parent purchase tobacco products for a child or employ the child's use of tobacco products as part of a treatment or behavior modification program.

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

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

(c) Physical punishment of foster children is prohibited.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Foster parents may not provide a home-based private educational program to foster children in their care. This is not to be confused with homebound study under s. 118.15(1), Stats., or as defined in the child's individualized education program (IEP).

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

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

(f) Foster parents shall assist the agency and any contracted agency with the transfer of independent living skills to and the preparation for independent living of a foster child whose permanency plan indicates the need for these skills and preparation.

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

1. The child's name, nick-name and any alias by which the child is known.
2. The child's birthdate.
3. The names, addresses and telephone numbers of persons to be notified in an emergency involving the foster child.
4. The date the child was received by the licensee for care.
5. The name, address and telephone number of the person or agency placing the child.
6. The name of the physician to be called in an emergency.
7. Medical information about the child, including known allergies and the occurrences and dates of medical examinations, immunizations, illnesses and accidents since the time the child was placed in the foster home.

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

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

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

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

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

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

- (a) To the licensing agency or agency placing the child in the care of the licensee.
- (b) To another foster parent as authorized by the agency, such as when another foster parent is being considered as a placement for the child or is providing respite for the child.
- (c) By order of a court.
- (d) As otherwise provided by law.

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

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

Note: The appeal rights described in this section relate only to licensure decisions. Foster parents also have appeal rights for non-licensure decisions as provided under s. 48.64(4), Stats., and ch. HA 3 rules. Any decision made by a circuit court regarding a placement or a placed child is not appealable by the foster parent under this section. Appeal of a finding that a foster parent abused or neglected a child shall be pursuant to ch. 68, Stats., except for Milwaukee county cases where the appeal shall be pursuant to ch. 227, Stats.

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

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

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

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

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

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

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

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

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

2. 'Level B, minimal.' The child exhibits at least 2 characteristics that include or correspond in extent or degree with the following: These children demand excessive attention from others. They are nervous, high-strung, impulsive and they display temper tantrums. They often are restless and hyperactive, have short attention spans and occasionally wet during

the night. They exhibit low self-esteem and a lack of confidence in their ability to deal with the world. They are periodically withdrawn and unresponsive.

3. 'Level C, moderate.' The child exhibits at least 2 characteristics which include or correspond in extent or degree with the following: Children at this level are habitually resistive and have difficulty communicating with others, often failing to do what is expected of them. They typically respond to situations with apathy, showing a lack of any interest. They have difficulty in establishing relationships and set up others for rejection. These children display cultural and social conflicts. They are frequent night bed-wetters or occasionally defecate in bed clothes or both. They display over-activity and over-excitedness, necessitating close supervision.

4. 'Level D, intensive.' The child exhibits one or more characteristics which include or correspond in extent or degree with the following, and the characteristics are severe: These children may have infantile personalities, wet or defecate in clothing during daytime hours several times a week, have severe hyperactivity to the point of frequent destructiveness or sleeplessness, are chronically withdrawn, depressed or anxious, are self-injurious, require constant and intensive supervision and may be involved in behavioral management programs or show bizarre or severely disturbed behavior. They may display anorexia nervosa.

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

2. 'Level B, minimal.' The child exhibits at least 2 characteristics which include or correspond in extent or degree with the following: These children run away infrequently for short periods of time (1 or 2 days) with the intention of returning. They occasionally skip classes or an entire day of school, affecting class achievement and requiring make-up, and parent contact with the school. They use sexual acting-out or language as an attention-getting mechanism and occasionally experiment with alcohol or drugs or both. They may have infrequent conflicts with parents or community authorities, including displays of hostility and occasional petty theft or vandalism or both. They may exhibit occasional aggressive behavior such as biting, scratching or throwing objects at another person.

3. 'Level C, moderate.' The child exhibits at least 2 characteristics which include or correspond in extent or degree with the following: Children at this level frequently run away for longer periods of time (4 to 7 times a year for 3 or 4 days at a time) and require encouragement to return. They are frequently truant from school (1 to 2 times a month for more than one day), resulting in delayed academic progress including performance below their ability which may lead to class failure, possible suspension and frequent parent contact with the school. They may exhibit sexual activity harmful to themselves and disruptive to their family and community relationships. They may occasionally have been involved in non-violent crimes such as burglary, which caused conflict with authority. They may exhibit frequent aggressive behavior such as biting, scratching or throwing objects at another person.

They may exhibit occasional self-abusive behavior such as banging their heads, poking their eyes, kicking themselves or biting themselves.

4. 'Level D, intensive.' The child exhibits one or more characteristics which include or correspond in extent or degree with the following, and the characteristics are severe: These children frequently run away for long periods of time (8 or more times a year for 5 or more days at a time), returning only on the initiative of others. They may habitually create a disturbance in the classroom or be habitually truant from school resulting in class failure, frequent suspension or expulsion, and requiring frequent parent contact with the school. They exhibit sexual deviancy, including that of a violent nature or nonconsenting involvement of others. They habitually use alcohol or drugs or both. They may exhibit uncontrollable behavior, be involved in property offenses repeatedly with adjudication on more than one property offense which is as serious as burglary, and have committed acts such as arson, physical assault or armed robbery. They may on a daily basis exhibit aggressive behavior such as biting, scratching or throwing objects at another person. They may exhibit frequent self-abusive behavior such as banging their heads, poking their eyes, kicking themselves or biting themselves. These children may eat inappropriate items such as rubber or metal.

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

2. 'Level B, minimal.' The child exhibits one or more characteristics which include or correspond in extent or degree with the following: These children need some help with putting on braces or prosthetic devices and help with buttons or laces but basically care for themselves and are able to maintain their own physical assisting devices. They have seizures or motor dysfunctions which are controlled by medication. Therapy for gross or fine motor skills can be done with supervision for children to achieve normal conditions. These children may require special diet preparation.

3. 'Level C, moderate.' The child exhibits one or more characteristics which include or correspond in extent or degree with the following: Children at this level need help with dressing, bathing and general toilet needs, including maintenance procedures such as diapering and applying catheters, and require the help of a person or a device to walk or get around. They need assistance to care for and maintain physical assisting devices. The children have feeding problems such as excessive intake, extreme messiness or extremely slow eating requiring help or supervision or both. There may be a need for tube or gavage feeding. These children require special care to prevent or remedy skin conditions such as decubiti (bedsores) and severe eczema. The administration of medications and preparation of special diets are demanding, and prescribed physical therapies such as those for vision, hearing, speech or gross or fine motor skills require one to 2 hours a day.

4. 'Level D, intensive.' The child exhibits one or more characteristics which include or correspond in extent or degree with the following: These children are non-ambulatory, may have uncontrollable seizures and need appliances for drainage, colostomy, aspiration or

suctioning. Even with proper medical attention, vision, speech or hearing functions are impaired and may require foster parent training. These children are in need of daily prescribed exercise routines to improve or maintain gross or fine motor skills that require home administration. Prevention procedures such as daily irrigation may be required on behalf of the children. Extra cleaning and laundry to maintain body hygiene and control of the child's body waste may also be required. Orthotics care at this level demands a great deal of time, care and responsibility. Prescribed physical therapies take 2 to 3 hours a day.

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

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

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

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

HFS 56.12 Foster parent education. (1) **PURPOSE.** This section implements s. 48.675, Stats., which provides for the continuing education of persons who operate foster homes and care for children with special treatment needs. Implementation of this section shall be dependent upon the availability of funds for the purpose of foster parent training.

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

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

(4) **ADVISORY COMMITTEE.** A statewide advisory committee appointed by the department and representing county agencies, foster parents, vocational-technical education, the university system, disability and special interest groups and the department's division of

children and family services shall study needs and resources and advise the department on specific training needs.

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

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

(6) QUALIFICATIONS OF TRAINERS. Persons preparing or presenting materials for foster parent training shall present educational and experiential credentials which indicate their expertise in the subject matter as well as an ability to communicate their knowledge.

(7) FUNDING OF TRAINING. (a) Foster parent expenses for transportation and child care in connection with training shall be reimbursed by the department, as follows:

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

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

(b) Fees for course materials shall be paid by the department.

(c) Fees for trainers and for preparation of materials shall be paid by the department.

(8) CRITERIA FOR EVALUATING TRAINING MATERIALS AND COURSES. (a) Training shall be responsive to demonstrated needs of foster parents.

(b) Training shall be planned and executed in keeping with adult education principles that include, but are not limited to, participatory learning, learning material geared to participants' specific needs and sequenced educational programming.

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

SECTION 2. Chapter HSS 56 is repealed.

The repeal and rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, as provided in s. 227.22(2), Stats.

Wisconsin Department of Health
and Family Services

Dated:

By:

Joseph Leean
Secretary

SEAL: