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(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS**

2001-02

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on ... Children and Families (AC-CF)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (May 2012)

TO: Members of the Children and Families Committee
FROM: Representative Steve Kestell, Chair
DATE: March 8, 2002
RE: **Clearinghouse Rule 02-007**

On March 8, 2002 the following clearinghouse rule was referred to the Assembly Children and Families Committee:

Clearinghouse Rule 02-007, DWD Chapter 55, relating to day care certification.

The proposed rule amends the certification requirements for child care providers who provide care and supervision of children whose care is subsidized under s. 49.155, Stats. The rule incorporates the requirement in 2001 Wisconsin Act 16 that all certified providers and their employees and volunteers receive training in the most current medically accepted methods of preventing sudden infant death syndrome if they will be providing care and supervision for children under one year of age.

The deadline for committee action on this rule is **April 8, 2002**. If you are interested in obtaining a copy of the rule or requesting a hearing, please contact my office prior to the deadline date.

Representative Steve Kestell
Chair

SK:drm

Scott McCallum
Governor

Jennifer Reinert
Secretary



OFFICE OF THE SECRETARY

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**State of Wisconsin
Department of Workforce Development**

February 28, 2002

President of the Senate
220 South, State Capitol
Madison, Wisconsin 53702

Speaker of the Assembly
211 West, State Capitol
Madison, Wisconsin 53702

Notice of Administrative Rules in Final Draft Form

Clearinghouse rule number: 02-007

Rule number: DWD 55

Relating to: Day Care Certification

Dear Senator Risser and Representative Jensen:

I have enclosed proposed rules in final draft form and a rule report as required by s. 227.19(3), Stats., for referral to the appropriate legislative standing committees. If you have any questions regarding this matter, please do not hesitate to contact us.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jennifer Reinert'. The signature is written in a cursive, flowing style.

Jennifer Reinert
Secretary

Scott McCallum
Governor

Jennifer Reinert
Secretary



State of Wisconsin

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Department of Workforce Development

Rule Analysis for Legislative Review

**Proposed rules relating to day care certification
Chapter DWD 55
CR 02-007**

Need for rules

The proposed rules amend the certification requirements for child care providers who provide care and supervision of children whose care is subsidized under s. 49.155, Stats. The rules incorporate the requirement in 2001 Wisconsin Act 16 that all certified providers and their employees and volunteers receive training in the most current medically accepted methods of preventing sudden infant death syndrome if they will be providing care and supervision for children under one year of age.

Public hearing response

A public hearing was held in Madison on February 15, 2002. A summary of comments received and the department's response is attached.

Response to Legislative Council staff recommendations

The department accepted all comments except comment 5.f., regarding the appeal process if a certification is denied, suspended, revoked, or nonrenewed. The renumbered DWD 55.06(4) applies to any action taken under Chapter DWD 55. This has not been confusing to certifiers and the department does not want to raise questions by altering the language.

Final regulatory flexibility analysis

The proposed rule applies to certified day care providers who generally are small businesses. The department directly notified 4500 certified day care providers of the proposed rule changes and received comments from 15 providers. Many of their comments were in support of the proposed rules. The department generally responded to provider's concerns except where the safety of the children in care outweighed these concerns.

Department contacts

Dave Edie, Director
Office of Child Care
Division of Workforce Solutions
266-6946

Elaine Pridgen
Administrative Rules Coordinator
Office of Legal Counsel
267-9403

State of Wisconsin
Department of Workforce Development
Division of Workforce Solutions

DWD 55
Day Care Certification

The Wisconsin Department of Workforce Development proposes an order to repeal DWD 55.04(3)(f), 55.05(4), and 55.08(2)(h); to renumber DWD 55.05(5), 55.08(1)(b)1., 55.08(1)(b)2., 55.08(8)(a)4., 55.08(8)(a)5., and 55.08(8)(a)6.; to renumber and amend DWD 55.06; to amend DWD 55.02(1), 55.02(4m), 55.04(3)(b), 55.04(5)(a), 55.04(7)(b)2.c., 55.04(7)(b)2.d., 55.04(9), 55.05(1), 55.05(2), 55.08(1)(a)3., 55.08(1)(b)2.a., 55.08(2)(c)(intro), 55.08(2)(c)2., 55.08(2)(c)3., 55.08(2)(d), 55.08(2)(e), 55.08(2)(f), 55.08(2)(g), 55.08(2)(k), 55.08(5)(i), Table 55.08(5)(i), 55.08(7)(b), 55.08(8)(a)2., 55.08(8)(a)3., 55.08(8)(a)5., 55.08(12)(c), and 55.08(12)(f)(intro); to repeal and recreate DWD 55.05(3); and to create 55.02(3m), 55.04(6)(c), 55.04(7)(b)2.h., 55.04(7)(b)3.d., 55.06(1)(d), 55.06(1)(e), 55.06(1)(f), 55.06(1)(g), 55.06(1)(h), 55.06(2), 55.06(3), 55.08(1)(b)1., 55.08(1)(b)2., 55.08(2)(cm), 55.08(2)(e)1., 55.08(1)(b)2., 55.08(2)(cm), 55.08(2)(e)1., 55.08(2)(e)2., 55.08(2)(e)3., 55.08(2)(o), 55.08(4)(i), 55.08(4)(j), 55.08(7)(d), 55.08(7)(e), 55.08(7)(f), 55.08(7)(g), 55.08(7)(h), 55.08(7)(i), 55.08(7)(j), 55.08(8)(a)4., 55.08(8)(a)8., 55.08(9)(d), 55.08(9)(e), 55.08(11)(c), 55.08(11)(d), 55.08(12)(g), 55.08(12)(h), and 55.08(12)(i), relating to day care certification.

Analysis Prepared by the Department of Workforce Development

Statutory authority: ss. 49.155(1d)(a), as amended by 2001 Wisconsin Act 16, and 227.11, Stats.

Statutes interpreted: ss. 49.155 and 48.651, Stats.

The proposed rules amend the certification requirements for child care providers who provide care and supervision of children whose care is subsidized under s. 49.155, Stats.

Training on SIDS prevention. The rules incorporate the requirement in 2001 Wisconsin Act 16 that all certified providers and their employees and volunteers receive training in the most current medically accepted methods of preventing sudden infant death syndrome if they will be providing care and supervision for children under one year of age. The provider, employee, or volunteer must receive this training before the provider is certified or the employment or volunteer work commences.

Certification process. The rules on the certification process are amended to require that the applicant's references not be related to the applicant. The county or tribal certification agency shall check references prior to granting the initial certification and may check references at certification renewal. The results of the TB test that is required prior to certification may be from a test given up to one year before the application date. The county or tribal agency will conduct an on-site inspection of the place where child care will be provided before certification or within 30 days following certification, recertification, or a provider's move to a new location. If the

applicant has a separate license or certification to care for children or adults, such as foster care or adult care, the county or tribal agency will request a statement from the appropriate regulating agency indicating that the regulating agency approves a child care business in the applicant's home. The request shall include a request for permission for the licensed or certified caregiver to release information necessary for criminal history record search for residents and clients in the applicant's home. The county or tribal certification agency shall provide information on child care and the certification system to applicants prior to initial certification. The information shall include materials on sudden infant death syndrome, child development, positive discipline, health and safety, and nutrition. The proposed rules also create a requirement that all new workers in a child care certification agency complete the department-approved training during the first 6 months of employment.

Certification denial, suspension, revocation, or refusal to renew. The proposed rules create additional reasons for which a county or tribal agency may deny, suspend, or revoke, or refuse to renew certification and discontinue payment, including the provider submits false attendance records to the child care subsidy administrative agency, the provider fails to cooperate with the certifying agency, the applicant's license or certificate to care for children or adults has been denied or revoked, the provider misrepresents or withholds information, or the provider denies the day care certification worker access to the premises to monitor compliance with the certification standards. The certifying agency shall require a provider to submit a new application for certification if the provider's previous certification was denied, revoked, or not renewed. The certifying agency may refuse to accept a new application for 2 years after the date of the denial, revocation, or refusal to renew the certification. A provider whose certification has been revoked twice for non-compliance with the certification standards shall be permanently barred from certification.

Level I training. The proposed rule specifies that the 15 hours of child care training that regular Level I certified providers receive shall include information on child growth and development, positive discipline, child abuse and neglect, interpersonal relationships, daily schedule, health and safety, sudden infant death syndrome, business practices, and nutrition.

Provider's home. The standards for the provider's home are amended to provide that firearms and ammunition shall be stored in separate, locked areas that are inaccessible to the children. Concrete and asphalt shall be prohibited under climbing equipment, swings, and slides. In-ground pools, on-ground pools with rigid sides, hot tubs, and large outdoor trampolines may not be used during hours of care and shall be inaccessible to children by use of a permanent barrier or other preventive measure. Wading pools may be used if the water is changed daily and the pool is disinfected daily. "Wading pool" is defined as a shallow pool, capable of being dumped to change water, and used primarily for small children. Pets that may pose any risk to the children shall be restricted from indoor and outdoor areas used for day care. The certifying agency may prohibit the use of a cellular phone as a primary phone. If a cellular phone is used as a primary phone, it shall be operational during the hours of child care. If the child care is provided in a rental property, the provider shall obtain permission from his or her landlord to operate a child care business. The requirement that water be tested for lead when a public water supply is not available is repealed because it has been found to be unnecessary and is not required of licensed child care providers.

Child health care. The standards on child health care are amended to require that the provider change a child's diaper on an easily cleanable surface that is cleaned with soap and

water and a disinfectant solution after each use. The provider shall clean a child's superficial wound with soap and water only and protect it with a band-aid or bandage.

Supervision. The standards on supervision are amended to require that the provider's attendance records include the arrival and departure times for each child and that attendance records are stored at least 3 years.

Provider interaction with children. The standards on a provider's interaction with the children are amended to specify the following:

- Prohibited discipline that is frightening to a child includes binding or trying to restrict the child's movement or enclosing the child in a confined space such as a closet, basement, locked room, box, or similar cubicle.
- The provider shall provide positive guidance and redirection for the children and set clear limits for the children.
- The provider shall help each child develop self-control, self-esteem, and respect for the rights of others.
- The provider may not use time-out periods that exceed 5 minutes. For purposes of this paragraph, a "time-out" is an interruption of unacceptable behavior by the removal of the child from the situation.
- The provider may not punish a child for lapses in toilet training.
- The provider shall respond promptly to a crying infant or toddler's needs.
- The provider shall provide physical contact and attention to each infant and toddler throughout the day, including holding, rocking, talking to, singing to, and taking on walks inside and outside the home.
- The provider shall periodically change the position and location in the room of a non-walking child who is awake.

Children's activities. The standards on children's activities and equipment are amended to clarify that the requirement that each child engage in outdoor activities daily, weather permitting, includes infants and toddlers. The provider shall encourage each child to play with a variety of toys and equipment. Activities shall include opportunities for each child to be involved in a variety of activities during a week, including opportunities for play that enhance creativity, language development, use of large and small motor skills, and imagination. Activities shall also include reading to the children each day. There shall be opportunities for a non-walking child who can creep or crawl to move freely in a safe, clean, open, warm, and uncluttered area during each day.

Transporting children. The standards on transporting children are amended to require that a provider ensure that a written permission slip signed by a parent or guardian is on file and children are not left unattended in a vehicle.

Rest. The standards on rest are amended to require that each infant be placed to sleep on his or her back to reduce the risk of sudden infant death syndrome, unless otherwise directed by the child's physician. All sleeping arrangements for children under one year of age shall use firm mattresses and may not use soft bedding materials, such as comforters, pillows, fluffy blankets, or stuffed toys. A safe crib or playpen shall be available for each child under one year of age to use for napping.

Provider–parent communication. The standards on provider-parent communication are amended to require that the provider use information obtained on the department-provided “day care intake for child under 2 years” form, which collects essential information for infants and toddlers, to individualize the program of care for each child under 2 years of age. The provider shall inform a child’s parent of any disciplinary action taken or any injury to the child that occurred during day care hours. The provider shall also inform the parent in writing whether the premises are covered by a day care liability insurance policy.

Monitoring compliance. The provider shall permit a day care certification worker to conduct home inspections to monitor compliance with the certification standards.

SECTION 1. DWD 55.02 (1) is amended to read:

DWD 55.02(1) “Agency” has the same meaning as “county or tribal agency.”

SECTION 2. DWD 55.02 (3m) is created to read:

DWD 55.02 (3m) “Complaint” means an alleged violation of s. DWD 55.08 or 55.09.

SECTION 3. DWD 55.02 (4) is amended to read:

DWD 55.02 (4) “County or tribal agency” means a county department of social services established under s. 46.215 or 46.22, Stats., ~~or~~ a county department of human services established under s. 46.23, Stats., ~~and includes~~ or a tribal agency.

SECTION 4. DWD 55.02 (4m) is created to read:

DWD 55.02 (4m) “Day care certification worker” means a person employed by a county, a governing body of a federally-recognized American Indian tribe, or an agency under contract with a county or tribe whose duties include determination of eligibility for day care certification.

SECTION 5. DWD 55.04 (3)(b) is amended to read:

DWD 55.04 (3)(b) *References.* The applicant shall submit with the application the names and addresses of at least two persons, not related to the applicant, who can attest to the applicant’s good character and ability to care for children. The county or tribal agency shall require references of all applicants and shall contact references by phone or letter ~~before certifying an applicant~~ prior to granting initial certification.

SECTION 6. DWD 55.04 (3)(f) is repealed.

SECTION 7. DWD 55.04 (5) (a) and (b) are amended to read:

DWD 55.04 (5) (a) *Level I, ~~regular,~~ (regular) certification.* Level I, ~~regular,~~ (regular) certification may be issued only after the provider has demonstrated compliance with all certification standards including training. Level I, ~~regular,~~ (regular) certification shall be for a period of 2 years and shall be renewed upon application if the provider continues to comply with the certification standards under s. DWD 55.08 or 55.09. ~~A provider is not eligible to be issued Level I, regular, certification if the provider is related to all the children in the provider’s care.~~

(b) *Level II, ~~or provisional,~~ (provisional) certification.* Level II, ~~or provisional,~~ (provisional) certification may be issued only after the provider has demonstrated compliance with all certification standards under s. DWD 55.08, except standards for training under s. DWD 55.08 (1) (b). Level II, ~~or~~

~~provisional,~~ (provisional) certification shall be for a period of 2 years and shall be renewed upon application if the provider continues to comply with the certification standards, except standards for training under s. DWD 55.08 (1) (b).

SECTION 8. DWD 55.04 (6) (c) is created to read:

DWD 55.04 (6) (c) The county or tribal agency shall ensure that each new day care certification worker completes the department-approved certification training during the first 6 months of employment.

SECTION 9. DWD 55.04 (7)(b)2.c. is amended to read:

DWD 55.04 (7)(b)2.c. Provide ~~orientation for~~ information on child care and the certification system to applicants for prior to initial certification to explain how the certification system works. The information shall include materials on sudden infant death syndrome, child development, positive discipline, health and safety, and nutrition.

Note: Contact Wisconsin Child Care Information Center at 1-800-362-7353 for information on available materials.

SECTION 10. DWD 55.04 (7)(b)2.d. is amended to read:

DWD 55.04 (7)(b)2.d. Conduct an on-site inspection of the place where child care will be provided before certification or within 30 days following initial certification, of the place where child care will be provided by a provider who has applied for certification or has been certified recertification, or a provider's move to a new location.

SECTION 11. DWD 55.04 (7)(b)2.h. is created to read:

DWD 55.04 (7)(b)2.h. Request a statement from the appropriate regulating agency indicating that the regulating agency approves a child care business in the applicant's home if the applicant has a separate license or certification to care for children or adults, including foster care or adult care. The request shall include a request for permission for the licensed or certified caregiver to release information necessary for a criminal history record search for residents and clients in the applicant's home.

SECTION 12. DWD 55.04(7)(b)3.d. is created to read:

DWD 55.04(7)(b)3.d. Update provider references at certification renewal.

SECTION 13. DWD 55.04(9) is amended to read:

DWD 55.04(9) CERTIFICATION DECISION AFTER BACKGROUND REVIEW. The county or tribal agency shall conduct background reviews in accordance with s. 48.685, Stats. For guidance in resolving issues that arise in particular cases, the county or tribal agency shall follow ch. HFS 12, and the crimes table incorporated into ch. HFS 12, and shall apply the standards ~~which~~ that apply to licensed day care facilities.

SECTION 14. DWD 55.05 (1) is amended to read:

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

SECTION 15. DWD 55.05 (2) is amended to read:

DWD 55.05 (2) Each county or tribal agency shall maintain its records concerning each person ~~who is denied a~~ whose certificate ~~due to the review of background information~~ is denied, revoked, or not renewed for a reason specified in s. 48.685 (4m)(a) 1. to 5., Stats. The county or tribal agency shall report this information to the department's office of child care. The county or tribal agency shall immediately report the receipt of an application for rehabilitation review and the results of each rehabilitation review to the office of legal counsel of the department of health and family services.

SECTION 16. DWD 55.05 (3) is repealed and recreated to read:

DWD 55.05 (3) The county or tribal agency may deny, suspend, revoke, or refuse to renew certification and discontinue payment for care if the certified day care operator, day care program employee, provider, assistant to the provider, substitute provider, or person living in the family day care provider's home is the subject of a court finding that the person has abandoned his or her child; has inflicted emotional damage or sexual or physical abuse on a child; or has

neglected or refused, for reasons other than poverty, to provide necessary care, food, clothing, medical or dental care, or shelter so as to seriously endanger the physical health of a child.

SECTION 17. DWD 55.05 (4) is repealed.

SECTION 18. DWD 55.05 (5) is renumbered DWD 55.06 (1).

SECTION 19. DWD 55.06 is renumbered DWD 55.06 (4) and, as renumbered, is amended to read:

DWD 55.06 (4) ~~APPEAL.~~ If a county or tribal agency denies, suspends, revokes or refuses to renew a certification, the county or tribal agency shall notify the provider in writing and give reasons for the action. The action is reviewable pursuant to ch. 68, Stats., which provides for administrative review of the decisions of local agencies. Tribal agencies shall use an appeal process equivalent to the process in ch. 68, Stats.

SECTION 20. DWD 55.06 (1) (d), (e), (f), (g), (h) are created to read:

DWD 55.06 (1) (d) The provider submits false attendance records to the child care subsidy administrative agency.

DWD 55.06 (1) (e) The provider fails to cooperate with the certifying agency.

DWD 55.06 (1)(f) The applicant's license or certificate to care for children or adults has been denied or revoked.

DWD 55.06 (1)(g) The provider misrepresents or withholds information.

DWD 55.06 (1)(h) The provider denies the day care certification worker access to the premises to monitor compliance with the certification standards.

SECTION 21. DWD 55.06 (2) and (3) are created to read:

DWD 55.06 (2) The certifying agency shall require a provider to submit a new application for certification if the provider's previous certification was denied, revoked, or not renewed for a reason in s. DWD 55.05 or s. DWD 55.06 (1). The certifying agency may refuse to accept a new application for 2 years after the date of the denial, revocation, or refusal to renew the certification.

DWD 55.06 (3) A provider whose certification has been revoked twice for noncompliance with the certification standards in s. DWD 55.08 or 55.09 shall be permanently barred from certification.

SECTION 22. DWD 55.08 (1) (a)3. is amended to read:

DWD 55.08 (1) (a)3. A provider shall demonstrate that he or she is free from tuberculosis prior to certification. The agency may accept results of a test administered up to 12 months before the application date.

SECTION 23. DWD 55.08 (1) (b)1. is renumbered DWD 55.08(1)(b)2.a., and, as renumbered, is amended to read:

DWD 55.08 (1)(b)2.a. A Level I (regular) certified provider under s. DWD 55.04 (5) (a) shall have completed 15 hours of child care training approved by the county or tribal agency responsible for certification prior to Level I (regular) certification. The training shall include information on child growth and development, positive discipline, child abuse and neglect, interpersonal relationships, daily schedule, health and safety, sudden infant death syndrome, business practices, and nutrition.

SECTION 24. DWD 55.08 (1) (b)1. is created to read:

DWD 55.08 (1) (b)1. ‘Level I (regular) and Level II (provisional).’ All providers and all employees, substitutes, and volunteers of a provider who provide care and supervision for children under one year of age shall receive training in the most current medically accepted methods of preventing sudden infant death syndrome before the date on which the provider is certified or the employment or volunteer work commences.

SECTION 25. DWD 55.08 (1)(b)2. is renumbered DWD 55.08 (1)(b)2.b.

SECTION 26. DWD 55.08 (1)(b)2.(intro) is created to read:

DWD 55.08(1)(b)2. ‘Level I (regular).’ The following apply to Level I (regular) certified providers:

SECTION 27. DWD 55.08 (2) (c) (intro), 55.08 (2) (c) 2., and 55.08 (2) (c) 3. are amended to read:

DWD 55.08 (2) (c) The home shall be free of hazards and ~~the following~~ items that shall be kept inaccessible to the children include, but are not limited to, the following:

2. Cleaning supplies, poisons, and insecticides.
3. Guns, ammunition, knives, scissors, and sharp objects.

SECTION 28. DWD 55.08 (2) (cm) is created to read:

DWD 55.08 (2) (cm) Fire arms and ammunition materials shall be stored in separate, locked areas that are inaccessible to children.

SECTION 29. DWD 55.08 (2) (d) and 55.08 (2) (e)(intro) are amended to read:

DWD 55.08 (2) (d) Indoor and outdoor areas used for child care shall include sufficient space for play and for activities ~~which~~ that meet the developmental needs of the children in care.

DWD 55.08 (2) (e) Outdoor play areas shall be free of hazards and shall be fenced or the provider shall take special measures to ensure the safety of the children, including the following:

SECTION 30. DWD 55.08 (2) (e) 1., 55.08 (2) (e) 2., and 55.08 (2) (e) 3. are created to read:

DWD 55.08 (2) (e) 1. Concrete and asphalt shall be prohibited under climbing equipment, swings, and slides.

DWD 55.08 (2) (e) 2. In-ground pools, on-ground pools with rigid sides, hot tubs, and large outdoor trampolines may not be used during hours of care and shall be inaccessible to children by use of a permanent barrier or other preventive measure.

DWD 55.08 (2) (e) 3. Wading pools may be used if the water is changed daily and the pool is disinfected daily. In this subdivision, "wading pool" means a shallow pool, capable of being dumped to change water, and used primarily for small children.

SECTION 31. DWD 55.08 (2) (f) and (g) are amended to read:

DWD 55.08 (2) (f) Pets that are kept in the home shall be tolerant of children and vaccinated against rabies. Pets that may pose any risk to the children shall be restricted from indoor and outdoor areas used for day care.

DWD 55.08 (2) (g) The home shall have at least one telephone in working order with a list of emergency numbers posted by each telephone, including numbers for the rescue squad, police, fire station, emergency medical care, and poison control center. The certifying agency may prohibit the use of a cellular phone as a primary phone. If a cellular phone is used as a primary phone, it shall be operational during the hours of child care.

SECTION 32. DWD 55.08 (2) (h) is repealed.

SECTION 33. DWD 55.08 (2) (k) is amended to read:

DWD 55.08 (2) (k) When a public water supply is not available, the water shall be tested and found to be bacteriologically safe and to have safe nitrate ~~and lead~~ levels by a laboratory certified under 42 CFR 493 (CLIA) prior to or within 3 months of initial certification and at least every 2 years.

SECTION 34. DWD 55.08 (2) (o) is created to read:

DWD 55.08 (2) (o) If the child care is provided in a rental property, the provider shall obtain permission from his or her landlord to operate a child care business.

SECTION 35. DWD 55.08 (4) (i) and (j) are created to read:

DWD 55.08 (4) (i) The provider shall change a child's diaper on an easily cleanable surface that is cleaned with soap and water and a disinfectant solution after each use.

DWD 55.08 (4) (j) The provider shall clean a child's superficial wound with soap and water only and protect it with a band-aid or bandage.

SECTION 36. DWD 55.08 (5) (i) is amended to read:

DWD 55.08 (5) (i) The provider shall keep a written record of the daily hours of attendance of each child in care, including the arrival and departure time for each child. Attendance records shall be kept for at least 3 years.

SECTION 37. DWD Table 55.08 (6) is amended to read:

**Table 55.08 (6) MAXIMUM NUMBER OF CHILDREN IN CERTIFIED DAY CARE
A. WHEN ALL CHILDREN ARE 2 YEARS OF AGE OR OLDER**

Related Children Under 7 years of Age	Additional <u>Non-related</u> Children Under 7 years of age	Additional Children Ages 7 to 11 <u>and older</u>	Maximum Number of Children*
0	3	Additional children	6
1	3	ages 7 through age	6
2	3	12 (if <u>special needs</u>	6
3	3	<u>up to 19</u>) may be cared for	6
4	2	as long as the maximum	6
5	1	total number of children	6
6	0	is not exceeded	6

*The maximum number does not include the provider's natural, adopted, or foster children 7 years of age and older.

B- WHEN CHILDREN UNDER THE AGE OF 2 YEARS ARE PRESENT

Number of Children Under 2 Years of Age	Maximum Number of Children*
0	6
1	6
2	6
3	5
4	4

*The maximum number does not include the provider's natural, adopted or foster children 7 years of age and older.
Note: Under s. 48.65 (1), Stats., if a provider takes care of 4 or more children under the age of 7 who are not related to the provider, for compensation, the provider must obtain from the department a license to operate a day care center.

SECTION 38. DWD 55.08 (7) (b) is amended to read:

DWD 55.08 (7) (b) May not hit, spank, pinch, shake or inflict any other form of corporal punishment on the child, or use any discipline ~~which~~ that is frightening to the child, including binding or trying to restrict the child's movement or enclosing the child in a confined space such as a closet, basement, locked room, box, or similar cubicle.

SECTION 39. DWD 55.08 (7) (d) to (j) are created to read:

DWD 55.08 (7) (d) Shall provide positive guidance and redirection for the children and set clear limits for the children.

DWD 55.08 (7) (e) Shall help each child develop self-control, self-esteem, and respect for the rights of others.

DWD 55.08 (7) (f) May not use time-out periods that exceed 5 minutes. For purposes of this paragraph, a "time-out" is an interruption of unacceptable behavior by the removal of the child from the situation.

DWD 55.08 (7) (g) May not punish a child for lapses in toilet training.

DWD 55.08 (7) (h) Shall respond promptly to a crying infant or toddler's needs.

DWD 55.08 (7) (i) Shall provide physical contact and attention to each infant and toddler throughout the day, including holding, rocking, talking to, singing to, and taking on walks inside and outside the home.

DWD 55.08 (7) (j) Shall periodically change the position and location in the room of a non-walking child who is awake.

SECTION 40. DWD 55.08 (8)(a)2., and 3. are amended to read:

DWD 55.08 (8)(a)2. Both indoor and, weather permitting, outdoor activities for each child daily, including infants and toddlers.

DWD 55.08 (8)(a) 3. Opportunities and encouragement for each child to play with a variety of toys and equipment.

SECTION 41. DWD 55.08 (8)(a) 4., 5., and 6. are renumbered DWD 55.08(8)(a) 5., 6., and 7. respectively and as renumbered DWD 55.08 (8)(a) 5. is amended to read:

DWD 55.08 (8)(a) 5. Opportunities for each child to be involved in a variety of activities during a week, including opportunities for play that enhance creativity, language development, use of large and small motor skills, and imagination.

SECTION 42. DWD 55.08 (8)(a)4. is created to read:

DWD 55.08 (8)(a) 4. Reading to the children each day.

SECTION 43. DWD 55.08 (8)(a)8. is created to read:

DWD 55.08 (8)(a) 8. Opportunities for a non-walking child who can creep or crawl to move freely in a safe, clean, open, warm, and uncluttered area during each day.

SECTION 44. DWD 55.08 (9) (d) and (e) are created to read:

DWD 55.08 (9) (d) A written permission slip signed by a parent or guardian is on file.

DWD 55.08 (9) (e) Children are not left unattended in a vehicle.

SECTION 45. DWD 55.08 (11) (c) and (d) are created to read:

DWD 55.08 (11) (c) To reduce the risk of sudden infant death syndrome, each infant shall be placed to sleep on his or her back, unless otherwise directed by the child's physician. All sleeping arrangements for children under one year of age shall use firm mattresses and may not use soft bedding materials, such as comforters, pillows, fluffy blankets, or stuffed toys.

DWD 55.08 (11) (d) A safe crib or playpen shall be available for each child under one year of age to use for napping.

SECTION 46. DWD 55.08 (12) (c) and (f)(intro) are amended to read:

DWD 55.08 (12) (c) Developing written information ~~which~~ that specifies the charge for child care and the expected frequency of payment for the service.

DWD 55.08 (12) (f)(intro) Using an enrollment form ~~which~~ that includes:

SECTION 47. DWD 55.08 (12) (g), (h), and (i) are created to read:

DWD 55.08 (12) (g) Using information obtained on the department-provided “day care intake for child under 2 years” form, which collects essential information for infants and toddlers, to individualize the program of care for each child under 2 years of age.

DWD 55.08 (12) (h) Informing a child’s parent of any disciplinary action taken or any injury to the child that occurred during day care hours.

DWD 55.08 (12) (i) Informing the parent in writing whether the premises are covered by a day care liability insurance policy.

SECTION 48. DWD 55.08 (14) and (15) are created to read:

DWD 55.08 (14) MANDATORY CHILD ABUSE REPORTING. A provider who has reasonable cause to suspect that a child in his or her day care has been abused or neglected or that the child has been threatened with abuse or neglect and that abuse or neglect will occur shall immediately inform the county social or human services department, local law enforcement, or other organization designated in s. 48.981, Stats.

DWD 55.08 (15) MONITORING COMPLIANCE. The provider shall permit a day care certification worker to conduct home inspections to monitor compliance with the certification standards.

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



MICHAEL G. ELLIS
STATE SENATOR



Wisconsin State Senate

19TH SENATE DISTRICT

March 27, 2002

CR 02-007

April 8, 2002

Representative Steve Kestel, Chair
Assembly Committee on Children & Families
17 West, State Capitol
Madison, WI 53707


Dear Representative Kestel:

Enclosed is correspondence I received from a constituent of mine, Tamera Kuchenbecker who has some objections to some of the provisions in the Department of Workforce Development's proposed administrative rule revisions for day care certification, DWD 55. It is my understanding your committee is currently reviewing the Department's proposal.

Ms. Kuchenbecker operates a day care center in the Neenah area. She maintains some of the provisions in the proposed rule would negatively effect her operation. She lists specific objections to the rule. I would respectfully request you consider her objections as your review process continues.

Thank you for your consideration.

Sincerely,


MICHAEL G. ELLIS
State Senator
19th Senate District

Enclosure

TAMMY'S CHILDCARE

2020 COUNTY ROAD A, NEENAH WI 54956

MAR 23 2002

TELEPHONE: 920-727-4945 E-MAIL: tkk@ix.netcom.co



Monday March 18, 2002

Dear Senetor Ellis,

I have been a Winnebago County Certified childcare provider for about eight years. On February 15 2002 I testified before Dave Edie the Director of child care & Elaine Pridgen the administrative rules coordinator. Most of the impending rules/laws are very much over due. A few however will impacted my family and childcare kids greatly. Most of the children that my husband and I care for are subsidy families. In almost all the cases the only true care free fun time these kids have is when they are at our home. If the rules/laws go into affect I should be grandfathered in, do to the years, I have been doing this and the expense of making this yard every kid's dream.

SECTION 30 DWD 55.08 (2) (e) 2. This is listed and high-lighted on page ten of my attachment #1 and page 2 of the same attachment. All of the family's that I care for feel this should be completely up to them. They chose me as a provider because of what I offered as far as activities for the kids during the summer months. Some of these kids were here when I used to take all the kids to the public pools. It was always for a very short time due to the over crowded un- safe conditions. All the girls had a yellow bow in their hair and the boys had yellow t-shirts. We contracted pink eye numerous times over the years from the various pools. We have the water tested monthly in both our hot tub & pool by allied pools in Appleton. We just recently spent well over a thousand dollars buying a new filtration system that assures the water safety. Every one of my families are angry and up set about these pending new rules/laws. They all feel that it takes away wonderful experiences and exercise. They also are very fearful that I will simply shut down for the summer due to the fact that I have children that wont even be allowed to swim during child care hours. They understand that this would not be fair to my family. We all feel that the parents should be able to sign a, waiver/ permission slip, and be done with it. They would rather have their kids swimming here then a lake or public pool. We used are hot tub numerous days this winter when all the kids were bored. It is so great to be sitting in the hot tub while snowflakes are falling on their heads. They think it is great to catch them on there tong. I also have a large trampoline that has a net system that surrounds and completely encloses the trampoline. I have very strict rules and consequences for not following the rules. Again, we feel that this new rule/law is taking away from the kids. If supervised, as kids should be the chance of injury rate is far less than roller-blades, bikes, skate board and out side play sets. Many more injuries result from the things in the last sentence than a trampoline. If the state wants to make a rule/law that the protective net has to be installed in order to use the trampoline then great. I already did that do to the safety issues. Before we know it all kids in childcare are going to have to sit around reading, playing board games and playing video games. Older kids will not get exercise with out things like pools and trampolines.

I will loose at least \$15,000.00 out of my income if this rule/law is put into place. I have spent will over \$20,000.00 making my back yard a kids dream and now you want me to take all this safe supervised fun away from them. They all have used this for three years and cannot wait until summer comes. If this happens, I, will be forced to put my certificate on hold for the summer months. If this happens, three, subsidy families will have to find other care. Most of these kids have been through a ton of childcare experiences and disappointments at home. Most in which were not good. The state as I see it wouldn't have gotten a lot of response from other providers due to the fact that that most provider do not have the opportunity to have the things that I do.

DWD 55.08(2) (e) 3. Wadding pools are to be emptied daily and primarily used for small children. This is in no way fair to all the older kids. I do have a wadding pool. It is, used for the smaller kids. It is, emptied every day. With in about an hour the pool is filthy and needs to be emptied.

SECTION 37. DWD TABLE 55.08 (6) this table was done in about 1946, prior to kindergarten. My comments while testifying brought grins and laughter to the individuals we were testifying too. Yet, they chose not amend this. The age breakdown should be under the age of 5, and 5 and older. This age break down change is way over due. Kindergartens age children some of the easiest kids to care for. They are so excited to go to school and come home to tell you all about there day. Here in Neenah the am. Kids start at 8:20 and get out at 10:50 am. The after noon kids start at 12:15pm. until 3:00. I turn away many desperate parents due to the 11:50 to 12:15 over lap in the age break down. Further, more I asked that the state put into place an emergency exception rule. This would cover bad weather days and sick kids during school days. It has happened numerous times that the school system will get the kids to school and the weather will get

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bad. Then they send the kid's home, on the bus to homes that have know one home or that are locked. A few years ago, I ended up with eleven-neighbor hood kids that where not old enough to be home alone. Four of these kids, parent's actually ended up stranded over night and the kids stayed with my family. Then on another occasion, we had a chicken pox out break and another time it was pink eye. Under the state laws I was not supposed to let them in. Morally and ethically, this is wrong. I could have ended up in a lot of trouble with my certificate. I feel that if something happened to one of the kids I turned away I would have been in even more trouble. An emergency clause would benefit us greatly and protect us from breaking the law/rules.

SECTION 38. DWD 55.08 (7) (b) Most of this is great and should be common sense to all. However, the wording needs to in clude an exception. If a child is jeopardizing the safety of the other children or them selves the provider, need to be able to restrain the child. I have had on one occasion had to pin down a 10 year old that was ramming his head into the walls and cabernets while he was throwing any thing he could get into his hands. He was weighed about 20 pounds less than I do and was very angry at his dad and the impending divorce. The only thing that I could do was to literally, pin him down with his back on the floor while my oldest child call the mom. While I was waiting for the mom I talked to this boy and did get him to calm down. By the time that his mom got there, he was sitting next to me sobbing and telling me how sorry he was. Some times toddlers and older kid's strength when angry leaves you know alternative but to hang on to them. By not putting an exception rule in this it opens the provider to be sued by the parents of the child that got hurt or the child that got hurt because of there temper tantrum.

In closing, I want to that you for tying to help me. I love what I do. I started doing this when I left my career of fourteen years due to the lack of good childcare. At the time that I quit, I had a one and ten year old. Thank god that I had the ten-year-old at the same un-regulated home. After Easter break my ten-year-old was really upset and did not want his little sister to ever go back. The sad part is that this person is still caring for children un-regulated. I originally was going to go back to my career when my youngest child started school. She is now ten. I did quit about three years ago only to find that I was missing the kids. My county supervisor only put my certificate on hold. She knew that I would never be able to give it up. Marge Jenson knew that my love for the kids would bring me back. We really do not need to have more rules/laws. We simply need to have stricter guidelines as to who can be a citified provider along with surprise visits from the people that are our supervisors. I try to enrich their lives and the government takes out the tools to enrich the older kids.

Department contacts: Dave Edie, is director office of Child Care, division of workforce 608-266-6946. Elaine Prdgen, is the administrative rules coordinator office of legal counsel, 608-267-9403. These are two of the three present at the hearing. I have also left messages for the chair person senator Hanson @ 608-266-5670 and the representative Mr. Kestell @ 608-266-8530.

Sincerely,



Tamera L. Kuchenbecker