

Stegall, Jennifer

From: Hermes, Ron
Sent: Tuesday, September 21, 2004 8:00 AM
To: Stegall, Jennifer
Subject: RE: cr04-055 trauma rules

Thank you Jennifer!!

>>> "Stegall, Jennifer" <Jennifer.Stegall@legis.state.wi.us> 09/20/04 04:26PM >>>
I talked to Senator Roessler about the changes that were agreed to at the meeting on Friday. She is fine with them, including the pet issue.

-----Original Message-----

From: Hermes, Ron
Sent: Monday, September 20, 2004 4:03 PM
To: Stegall, Jennifer
Subject: cr04-055 trauma rules

Hi Jennifer-

We will be sending a germane modification to CR 04-055, related to trauma care. Apparently, there was a #4 that was inadvertently left off of footnote number 27 beginning on page 37 (this is in the appendix to the rule).

Please let me know if you have any questions.

Ron

Stegall, Jennifer

To: Hermes, Ron
Subject: RE: cr04-055 trauma rules

I talked to Senator Roessler about the changes that were agreed to at the meeting on Friday. She is fine with them, including the pet issue.

-----Original Message-----

From: Hermes, Ron
Sent: Monday, September 20, 2004 4:03 PM
To: Stegall, Jennifer
Subject: cr04-055 trauma rules

Hi Jennifer-

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Please let me know if you have any questions.

Ron

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LOCAL NEWS

Posted Sept. 19, 2004

Child-care centers cope with busing 'nightmare'

Law restricts area businesses from using vans

By **Peggy Breister**
the reporter pbreister@fdlreporter.com

Late notice by the federal government to local child-care centers that they would no longer be allowed to use their 15-passenger vans has left centers scrambling for alternatives as the school year begins.

Some kids at day-care centers used to be transported to and from school in the centers' vans. A change in law enforcement has forced centers to hire bus companies or make multiple runs to schools to cover the previously simple trips.

The decision to start enforcing the federal rules regarding 15-passenger vans has forced some child-care centers to turn away parents who need transportation to school for their children. Others are using their vans, but making do under a portion of the law that says it is OK to transport nine or fewer students in the 15-passenger vans.

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Some are looking to purchase mini-school buses and others have decided to contract with Nichols Bus.

"It's been a nightmare," said Betty Trent, owner of Camelot Children's Center, a facility that offers both day care and pre-school programs.

A demanded service

Transportation to and from school has become a service many child-care centers offer working parents, a service in demand by parents who have to be to work before school starts or those who work later than the 3 p.m. school dismissal time.

It's the reason John Carey switched his school-aged daughter from a convenient center located next door to his business in Peebles to the YMCA child care center in downtown Fond du Lac.

The facility in Peebles did not provide transportation to Pier School, but the YMCA does, he said. The service, long provided by a YMCA van that could seat up to 15, is now being contracted out to Nichols Bus.

"I understand why they're doing it," said parent Rick Olig, whose first-grader rides the Nichols bus to Pier every morning and occasionally back to the YMCA when her parents can't pick her up. "But it was much more comfortable for me when it was the Y doing the transporting with their van. She knew the drivers from the Y and they knew her."

Child care nightmare

Around the city, "for sale" signs are visible on the vans, some of which were purchased only a couple years ago.

Trent, of Camelot, said the staff found out they couldn't use

their 15-passenger vans about a week before school started. The news came during an annual inspection from the Department of Health and Family Services — after staff had already prepared the letter to parents discussing transportation to school and the cost of the service.

The representative from Family Services told child-care operators that the department was informed last spring by the Department of Transportation that it would begin enforcing the rules regarding the vans — rules that have been on the books since the early 1990s. But, the representative said, the department didn't have the money to notify child-care centers by mail, so it decided to tell them during annual inspections.

Some were told in spring, some as late as the end of August, like Camelot. Center representatives made calls, they protested, but in one operator's words, "we got nowhere."

So the centers contracted with Nichols, and it took a little time to get the bugs out. During the first week of school, some kids were getting picked up 45 minutes after school let out and not arriving at the child care center until 4:20 p.m., almost 90 minutes after school let out. One child was on the bus so long, his father had to wait 20 minutes for him to arrive at the child-care center, all the time paying for child care his son wasn't receiving.

But 9's OK

The letter handed to child-care centers regarding the vans indicates that it is not a violation to transport nine or fewer children in vans. The letter does make it clear that the vans are not considered safe and that the centers could be opening themselves up to liability issues.

It also states that it is not a violation to load the vans to capacity to haul pre-school students on field trips.

"That doesn't make sense to me," said Anita McConnell, director of YMCA Child Care. "They are saying the potential for problems with the vans when they are loaded to capacity is greater because of instances of rollovers. From a provider standpoint, if they are not safe for school children, why are they safe for pre-schoolers?"

School impact

To accommodate the new transportation system, some students are released early from school so they can get on the Nichols Bus and keep the driver on schedule. At Pier School, day-care students catching the bus are let out five minutes early, said Principal John Colwin.

The change hasn't had an impact on the school, he said.

Costly options

The Salvation Army Child Care Center decided it could not afford the \$70 a day to contract with Nichols Bus. Instead, said Director Patti Milanowski, the center is filling its 15-passenger vans, one that was purchased just last year, with nine children and making a couple of trips. Some of the children are probably arriving at schools before administrators would like them too, but right now, she said, it is the best solution.

In the long run, Milanowski said, the center plans to purchase mini-school buses to transport its kids.

The change has caused Arc Park Learning Center to turn away children this year who need transportation to school, said Director Chris Koplin. The center has 16 school-aged children.

"We only can have nine children on the van and that's it," she said. "We can enroll more school-aged children, we just can't transport them."

Camelot will not use the vans because of the threat of liability, Trent said. That means some innovative programs, like one that took day-care students to interact with adults at Adult Day Services, will be cancelled.

"But what can we do about it?" she said. "Nothing."

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No explanation why state is now enforcing 10-year-old law

By Peggy Breister

the reporter pbreister@fdlreporter.com

To understand why local child care centers were notified this year that they could not transport children to and from school in 15-passenger vans, it is necessary to go back more than 10 years.

In the early 1990s, the National Highway Traffic Safety Administration changed its interpretation of a law regarding 15-passenger vans to include child-care centers. The law says car dealers cannot sell these vans to child-care centers if the van will be used to transport children to and from school.

The law allows for law enforcement to fine child-care centers at least \$143.80 if they use the vans to transport more than nine children to school.

From child-care operators to DOT personnel and a state legislator, no one questioned by The Reporter was able to explain why the state has decided to begin enforcing a rule on the federal books for at least 10 years.

The answer might lie in part in a consumer warning issued in June of this year by a representative of the NHTSA regarding the vans' rollover risks. But the agency issued similar warnings in 2002 and 2003.

State Rep. John Townsend, R-Fond du Lac, didn't know child care centers were being told not to use the vans, and he is on the board of a local agency that has a child care center.

"But it doesn't surprise me in terms of what is happening with the DOT that they say they are going to do this and then not notifying anyone of it," he said. "It's a common problem we have when agencies try to interpret the law. It ends up requiring a lot of our (legislative) time."

The law only regulates the vans if they are used to carry 10 or more passengers. It's OK to use them to carry nine or fewer students to and from school, said Karl Mittelstadt, bus and human service vehicle inspector for the Wisconsin State Patrol. District 3 Day-care centers may fill the vans to

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capacity with pre-school children participating in field trips.

"They can use it to take kids to the park, to museums, wherever, but as soon as they start dealing with school to day care, that van can no longer be equipped to haul more than nine children," Mittelstadt said. "It's a federal law."

The vans, he said, are very dangerous because they carry up to 14 kids and are high off the ground. The more children loaded into the van, the greater the risk of rollover in an accident.

"I see a lot of day care centers going to school buses because they are safer, they're more noticeable, they have different safety equipment regarding seating. They have strobe lights, fire extinguishers and first-aid kits," he said.

Child care centers use the vans because they are less expensive than school buses, Mittelstadt said. Passenger vans are \$25,000 to \$30,000 vs. \$50,000 or more for a school bus.

Statistics show that school buses, even though they are not required to have seat belts and 15-passenger vans do, are the safest means of transportation next to the airplane, Mittelstadt said.

Inspections are not required of the vans, he said. School buses undergo an annual inspection. Special licensing isn't required for van drivers, whereas bus drivers need a commercial driver's license.

Stegall, Jennifer

From: Soderbloom, Kathy
Sent: Wednesday, September 08, 2004 2:25 PM
To: Stegall, Jennifer
Subject: CR 03-052 modification

Hi Jennifer,

Senator Robson supports maintaining the language in CR 03-052 45.07 (7)(f) related to pets, pet feeding dishes, cages and litter boxes. She considers this precaution an important health and safety issue.

Thanks,

Kathy

Stegall, Jennifer

To: Hermes, Ron; Rose, Laura
Subject: CR 03-052 Child Care Rule

Hi,

Here is a list I put together which details changes to CR 03-052 that Senator Roessler asked the Department to address/work on. I will have copies for everyone at the meeting. My thought is to briefly discuss each item on the list. If there are items I missed, please let me know and we can discuss those as well.

Thanks!

Jennifer



9-26-04 cr 03-052
child care l...

Stegall, Jennifer

From: Hermes, Ron
Sent: Thursday, September 09, 2004 7:47 AM
To: Stegall, Jennifer
Subject: Re: FW: Ron Hermmes

Hi Jennifer-

We will send another germane modification to you either on the 16th or 17th. We are hoping it will be the language related to contact with law enforcement. Then, after the 17th, we will hopefully be able to send you one last document that contains all of the remaining modifications.

Let me know if there are any problems with this strategy.

Ron

>>> "Stegall, Jennifer" <Jennifer.Stegall@legis.state.wi.us> 09/08/04 08:19PM >>>
Hi Ron,

I am going to be out of the office for the rest of the week but will be back on Monday. I called about the child care rule meeting being held on the 10th working day of the Committee's jurisdiction over the rule. I was wondering if another germane change could be sent over in order to provide more time. Otherwise, the Committee will either have to let the rule go as is, which Senator Roessler doesn't want to do given the germane changes that have been agreed to or it will have to vote, either for further modifications or to object to the rule. I would need to have the ballots back the same day I send them out, which can be done, but it would be nice to give members a little more time.

I hope this is making sense.

Laura, do you agree that we should have more time or do you think we are okay?

Thanks!

Jennifer Stegall
Office of Senator Carol Roessler
266-5300

> -----Original Message-----
> From: Malszycki, Marcie
> Sent: Wednesday, September 08, 2004 3:50 PM
> To: Stegall, Jennifer
> Subject: Ron Hermmes
>
> Ron called you back from last Friday. 6-3262
>
> Marcie Malszycki
> Office of Senator Carol Roessler
> 608-266-5300/ 1-888-736-8720
> Marcie.Malszycki@legis.state.wi.us
>

List of Items the Committee asked DHFS to Address

(No vote was taken...the Dept. is going to submit germane modifications first to extend the Committee's jurisdiction. The other issues will be worked on by the Department during the extended period of time)

1. **Definition of Emergency (HFS 45.03 (6) and HFS 46.03 (10m):** The Department should clarify that the definition provided is illustrative. It is not meant to be all-inclusive or limited to the examples listed.
2. **Family Situations (in the definition of "Emergency" HFS 45.03 (6) and HFS 46.03 (10m):** Clarify language. List situations: such as ... but not limited to.
3. **Change in room usage (HFS 46.04 (3) (h)):** The DHFS should make reference to the use of the room. The DHFS stated that department approval of changes in room use does not apply to temporary changes to the room.
4. **Law Enforcement (HFS 45.04 (3) (g) and HFS 46.04 (3) (k)):** Initially, Senator Roessler directed the Department to exclude programmatic contact with law enforcement from the requirement, i.e. police officer visits with children, safety checks etc. Later in the hearing, Senator Roessler told the DHFS to take another look at the whole issue and discuss with interested parties. A concern was raised at the hearing about privacy..., i.e. a rape situation.
5. **Construction or Remodeling (HFS 46.04 (3) (L)):** Senator Roessler directed the Department to provide examples of projects that would need approval. Also mention something about building permits (maybe an option for the manual).
6. **Caregiver Background Checks:** State law allows an employer to have a background check done on a new employee within the first 60 days of employment. The new employee cannot work unsupervised until a background check is complete. The actual process of completing a background check usually only takes a few days to a week to complete. Senator Roessler suggested that the Department indicate "best practices"

in their manual relating to background checks (i.e. they should be done as soon as possible).

7. **Authorization for medicine:** DHFS should indicate in the manual that a phone call to the parent is okay.

8. **Pets and animals:** Senator Roessler directed the Department to provide clarification in the manual about petting animals. For example, indicate that there is an exemption process for "pet show and tell day."

9. **Pets and animals (45.07 (7) (f) and 45.07 (7) (h):** Senator Roessler directed the DHFS to work with interested parties on language regarding pet feeding dishes, cages and litter boxes. The rule prohibits these items from being located in any food preparation, storage or serving areas. Senator Roessler also directed the DHFS to change 45.07 (7) (f) to read, "Proof of liability..." It currently says, "A current certificate of liability..."

10. **Operational requirements (45.04 (2) (e)):** The language currently reads, "Develop, submit to the department for approval..." Senator Roessler directed the DHFS to change the language to read, "Develop, submit to the department for *compliance review*..."

11. **Operational requirements (45.04 (3)):** This requires, "A change of any program service, such as changes in transportation or food services at the center and seasonal closing, at least 5 calendar days prior to the change. Changes in program services shall be approved by the department." Senator Roessler directed the DHFS to work with the interested parties on modifying this language.

12. **Physical plant and equipment...phone available for emergency use (45.06 (2) (d)):** Senator Roessler suggested that the DHFS include in the manual that a provider have a "hard line" telephone available for emergency situations.

13. **Physical plant and equipment...fire protection (HFS 45.06 (4) (b)):** Senator Roessler directed the DHFS to add language indicating that a provider can inspect their own fire extinguisher. Also, related to protection from fire, Senator Roessler asked the DHFS to indicate in the

~~Some~~
of amendments
used app.
may not be
fully
committed

manual that there should be more than one fire exit in the facility and more than one fire extinguisher available.

14. Program and Planning Schedules...meals and snacks (45.07 (5) (d)):

This requires accurate records of meals and snacks served to children to be available for review by parents and licensing representatives.

Senator Roessler asked that the rule be clarified to indicate weekly menus should be kept for 3 months. It was expressed by the DHFS that the purpose of maintaining the records is to have the ability to look back at a child's diet in the event a child becomes ill.

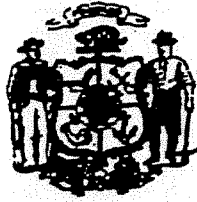
15. Definitions... OSHA phone number for universal precautions

(45.03 (36)): The phone number noted below the definition of "Universal precautions" is incorrect. DHFS should correct the number. The definition of universal precautions should also be clarified.

16. Additional requirement for toddler care...diapering and toileting

(HFS 45.09 (4) (c)): Clarify that a barrier is necessary. A person who testified was confused as to whether or not a person changing the diaper was considered a barrier. The answer was no.

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Carol Roessler

STATE SENATOR • 18TH SENATE DISTRICT

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Ron Hermes

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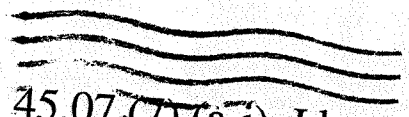
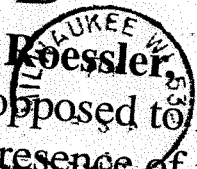
Message:

Here is a copy of the HFS 45.07
Cards that were sent to Sen. Roessler.
All are from the Milwaukee area.

Thanks -

Jennifer

Dear Senator **Roessler**



I am strongly opposed to HFS 45.07 (a-i). I believe that the presence of pets in a family child care home greatly enhances my child's learning experience. The strict language of HFS 45.07 (7) (a-i) robs me, as a parent, of the choice of placing my child in an environment which includes accessibility to domestic animals. I implore you to consider this before allowing it to move out of committee and to the full senate.

Sincerely,

Rose Attallah



Stegall, Jennifer

To: Hermes, Ron
Subject: FW: Ron Hermmes

Hi Ron,

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Jennifer Stegall
Office of Senator Carol Roessler
266-5300

-----Original Message-----

From: Malszycki, Marcie
Sent: Wednesday, September 08, 2004 3:50 PM
To: Stegall, Jennifer
Subject: Ron Hermmes

Ron called you back from last Friday. 6-3262

Marcie Malszycki
Office of Senator Carol Roessler
608-266-5300/ 1-888-736-8720
Marcie.Malszycki@legis.state.wi.us

Stegall, Jennifer

From: Carmody, Anne
Sent: Tuesday, September 07, 2004 11:07 AM
To: Hermes, Ron; Stegall, Jennifer; Rose, Laura
Cc: Chase, Jill; Welsh, Diane
Subject: Re: Child care rule meeting

Ok,

I have contacted both Patrice Klahn and Gena Kraemer and they will be coming to the meeting on Friday Sept 17 from 9:30 - 10:30 at the conference room at Legs Council.

They have directions.

See you then.

Anne

NOTICE: This E-mail and any attachments may contain confidential information. Use and further disclosure of the information by the recipient must be consistent with applicable laws, regulations and agreements. If you received this E-mail in error, please notify the sender; delete the E-mail; and do not use, disclose or store the information it contains.

>>> "Rose, Laura" <Laura.Rose@legis.state.wi.us> 09/03/04 08:41AM >>>

I have reserved the large conference room at Leg. Council for this meeting on Friday, Sept. 17. We can start whenever you want to - I'm usually here by 8:00 a.m. We are located at One East Main Street, Suite 401. One East Main is on the square between Starbucks and the Park Bank. The best places to park for out-of-towners would be either the "Government East" ramp next to the Great Dane, or in the private underground lot at 10 East Doty.

Let me know if I can do anything else to assist.

Laura

-----Original Message-----

From: Stegall, Jennifer
Sent: Thursday, September 02, 2004 4:29 PM
To: Hermes, Ron; Rose, Laura
Cc: Carmody, Anne; Chase, Jill; Welsh, Diane
Subject: RE: Dates to meeting regarding the rules

Both dates work for me. I also can arrange a hearing room.

-----Original Message-----

From: Hermes, Ron
Sent: Thursday, September 02, 2004 4:08 PM
To: Stegall, Jennifer; Rose, Laura
Cc: Carmody, Anne; Chase, Jill; Welsh, Diane
Subject: Dates to meeting regarding the rules

Hi Jennifer and Laura-

Below are two dates that the day care providers indicated would work for them to come to Madison and discuss the pet related issues in the rule. Please let me know if either date works for the two of you. Also, I think it would

09/07/2004

be best if the meeting was held either at the Capitol or the Leg Council offices, could one of you arrange for a meeting room?

Tuesday Sept 14 (morning only)

Friday Sept 17 (anytime)

Thanks,
Ron

Stegall, Jennifer

From: Malszycki, Marcie
Sent: Friday, September 03, 2004 10:55 AM
To: Stegall, Jennifer
Subject: Message

(Gina)

Jena Kraemer called in regards to the licensing rule for daycare. 414-545-4005

Marcie Malszycki
Office of Senator Carol Roessler
608-266-5300/ 1-888-736-8720
Marcie.Malszycki@legis.state.wi.us

JS called on 9-3-04.

Stegall, Jennifer

From: Hermes, Ron
Sent: Friday, September 03, 2004 8:23 AM
To: Stegall, Jennifer; Rose, Laura
Cc: Carmody, Anne; Chase, Jill; Welsh, Diane
Subject: RE: Dates to meeting regarding the rules

Anne-

Will you please set up a meeting for Friday, Sept. 17 (preferably in the AM), and let's hold the meeting at the Legislative Council conference room, 1 E. Main, 4th fl.

>>> "Rose, Laura" <Laura.Rose@legis.state.wi.us> 09/03/04 08:10AM >>>
Hello everyone,

I am in Washington on 9/14, but my schedule is open all day 9/17.

Jennifer, I could also reserve our large conference room here for the meeting, if you wish. It works well for this type of meeting. Let me know if you'd like me to do this.

Laura

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Tuesday Sept 14 (morning only)
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Ron

Stegall, Jennifer

From: Rose, Laura
Sent: Friday, September 03, 2004 8:42 AM
To: Stegall, Jennifer; Hermes, Ron
Cc: Carmody, Anne; Chase, Jill; Welsh, Diane
Subject: Child care rule meeting

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Tuesday Sept 14 (morning only)
Friday Sept 17 (anytime)

Thanks,
Ron

Wisconsin State Journal August 27, 2004

Child-care rules raise concerns

By Tom Sheehan
Wisconsin State Journal

Providers complain about a few items at hearing

State health officials and some child-care providers will continue working to settle differences over a proposed set of rules after a public hearing before a Senate committee Thursday.

Child-care providers at the hearing agreed with many of the changes proposed by the state Department of Health and Family Services in its first rewrite of industry rules in 15 years, said Sen. Carol Roessler, who heads the Senate Commit-

tee on Health, Children, Families, Aging and Long-Term Care.

But differences remain over a handful of items, including how pets should be regulated at home-based day-care facilities and when state officials should be notified of police contact, Roessler said.

Patrice Klahn, who runs a day-care center out of the basement of her home in Milwaukee, said the rules should do more to accommodate do-

mestic pets at home-based day-care centers.

Some parents choose to have their children cared for in homes instead of larger day-care centers because of the family-style setting, which often includes pets, Klahn said. Health officials proposed keeping pet dishes and kitty-litter boxes out of rooms used by children.

Some home-based day-care facilities aren't large enough to keep those items out of rooms

where children will be, Klahn said. And pets sometimes don't take well to being shuffled around to different parts of a home, Klahn said.

"In no other business I know of is your family, ... your clients' family and your pets so interwoven," Klahn said.

Some child-care providers at the hearing raised concerns about having to inform the state about police contacts, even when those incidents may have nothing to do with the welfare of a child at the center.

If the spouse of the operator of a home-based day-care program gets a speeding ticket, for example, the day-care operator should not necessarily have to inform the state, said Gina Kramer, who runs a family day-care program out of her West Allis home.

Roessler said she expects the rules to go into effect next year, although the sides have just a few weeks to sort out their differences because of a committee deadline, she said.

Contact Tom Sheehan
at tsheehan@madison.com
or 252-6198.

Stegall, Jennifer

From: Malszycki, Marcie
Sent: Thursday, September 02, 2004 3:32 PM
To: Stegall, Jennifer
Subject: message

Her name is Patrice Klahn 414-456-9508. Issues with the new day care rules.

Marcie Malszycki
Office of Senator Carol Roessler
608-266-5300/ 1-888-736-8720
Marcie.Malszycki@legis.state.wi.us

JS called on 9/2. DHFS is working on bites.

Stegall, Jennifer

From: Malszycki, Marcie
Sent: Monday, August 30, 2004 8:16 AM
To: Stegall, Jennifer
Subject: FW: HFS 45

Thank you
CR
JS - X

CR email

-----Original Message-----

From: LuvNHugs893@aol.com [mailto:LuvNHugs893@aol.com]
Sent: Friday, August 27, 2004 10:08 PM
To: Sen.Roessler
Subject: HFS 45

Senator Roessler,

Thank you for taking the time to hear our concerns regarding HFS 45--Licensing Rules for Family Child Care. The format in which the hearing proceeded seemed to be very productive and fair. I felt as if my concerns were heard and addressed. Thank you for giving us the opportunity to meet with the licensing department and members of your staff to restructure the rules in a way that family child care providers will be able to comply and keep the families we serve safe and healthy.

Thursday was the first time I had ever given testimony at a public hearing and I'd have to say that it was a very positive experience. I feel these rules need to get to the providers as soon as possible and I look forward to the next step in this process.

Sincerely,

Gena L. Kraemer,
Luv-N-Hugs Family Child Care
2141 S. 80th Street
West Allis, WI 53219



DIVISION OF CHILDREN AND FAMILY SERVICES

Jim Doyle
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9

Testimony on CR 03-052 before the
Senate Committee on Health, Children, Families, Aging and Long Term Care
Jill Chase – Director
Bureau of Regulation and Licensing
Division of Children and Family Services
Department of Health and Family Services

Chairwoman Roessler and members of the committee thank you for the opportunity to address the Senate Committee on Health, Children, Family, Aging and Long Term Care regarding the Department's proposed changes to HFS 45 & 46. My name is Jill Chase and I am the Bureau of Regulation and Licensing Director. With me today is Anne Carmody. Anne is the Child Care Program Specialist. As you may know, the Bureau of Regulation and Licensing (Bureau) within the Division of Children and Family Services is responsible for providing consumer protection and quality assurance services for children in out of home care. The Bureau's mission is to protect the health, safety and welfare of children in out of home care.

The Bureau of Regulation and Licensing regulates and licenses nearly 6,000 children's programs, which include child care programs as well as child welfare facilities and child placing agencies. The Bureau licenses seven different types of children's programs each regulated by separate administrative rules. Currently, the Bureau of Regulation and Licensing monitors over 5,000 child care facilities which include day camps, group child care centers for 9 or more children and family child care centers, which are usually located in an individual's home, for 4 to 8 children.

Wisconsin law requiring the licensing of child care centers was first enacted in 1949. The law requires that anyone who provides care for 4 or more children under the age of 7, within a 24 hour period for compensation, must obtain a license from the Department of Health and Family Services. Since the licensing law first went into effect Wisconsin has placed a high priority on promoting the best interests of children and families by supporting high quality child care. Wisconsin's child care and child care regulation have been recognized as some of the best in the nation.

With minor exceptions, the Department has not revised chapter HFS 45 since 1989. Since that time, several events have suggested or required the modification of chapter HFS 45. First, in 1997, the Department created chapter HFS 46, relating to licensing of group day care centers. These two chapters of rules address similar topics and, in the Department's judgement should contain comparable requirements, including ones related to definitions, licensing procedures and penalties and sanctions.

Second, since 1989, changes in the child safety practices standards have become generally accepted. For example, cardiopulmonary resuscitation (CPR) training for child care providers has become a mandate in nearly all other states.

Finally, 2001 Wisconsin Act 16 amended s. 48.67, Stats. to require that the department promulgate rules to include a requirement that all centers licensed to care for children under 1 year of age provide training to all employees and volunteers in the most recent medically accepted practice to reduce the risk of Sudden Infant Death Syndrome or SIDS.

Therefore, the Department is proposing to repeal and recreate HFS 45 relating to the licensing of family day care centers which care for between 4 and 8 children under age 7 and chapter HFS 46 relating to the licensing of group day care centers which have 9 or more children under age 7 in care. The modifications proposed by the Department will:

1. Incorporate new statutory requirements for training of child care providers in the most recent medically accepted method of reducing the risk of Sudden Infant Death Syndrome.
2. Bring the rules into conformance with other legislation relating to Caregiver Background Checks (s. 48.685, Stats.) and the Clean Indoor Air Act (s. 101.123 (2) (bm), Stats.)
3. Revise the rules to reflect current generally accepted safety practices in child care.
4. Modify portions of HFS 45 to be consistent with HFS 46.
5. Revise the licensing administration section of HFS 45 and 46 to reflect changes in the way the Department issues a license and create provisions that would allow the Department to bar consideration of an application if the applicant has had a previous license revoked or application denied for a substantive reason.
6. Enhance regulation of pets to better protect children in care
7. Change the name of programs from day care centers to child care centers.

As the Department began the rule modification process, we brought together an advisory group that included child care providers from rural and urban areas of the state and representatives from the statewide child care provider groups including the Wisconsin Early Childhood Association, the Wisconsin Family Child Care Association and the Wisconsin Child Care Administrators Association.

In addition, the advisory team included representatives from other statewide groups related to child care programs including the Child Care Resource and Referral Network, the Head Start Association, the Wisconsin Child Care Improvement Project and the Registry.

Finally, representatives from the Department of Public Instruction (Child and Adult Care Food Program), the Department of Workforce Development, Child Care Section (child care certification) and a DHFS Division of Public Health nurse consultant were also on the advisory team.

While developing the proposed rule changes, the Department reviewed neighboring states licensing requirements, and referred to the National Performance Standards for Health and Safety in Child Care Guidelines for Out-of-Home Child Care Programs (also called Caring for Our Children) second edition from the American Academy of Pediatrics and the American Public Health Association for guidance and rationale on our proposed changes. All changes to the rule were based on creating a safe and healthy environment for children receiving childcare services.

After several meetings and much discussion with the advisory group and others inside the Department, a final draft of the proposed changes was completed. Two public hearings were during the summer of 2003, one in Wausau and the other in Waukesha. In order to make sure that all 5,692 licensed child care providers were aware of the proposed changes to the rules, we sent a post card to each licensee sharing the dates and times of the public hearings as well as the procedure for making written comments on the changes. We also asked provider agencies and others with newsletters to include a notice of the public comment period. The proposed changes were posted on the Bureau's Web site along with a link to an e-mail address to accept comments. Paper copies of the changes were made available to anyone who requested one.

One hundred and ninety nine people either attended a hearing or provided a total of 653 written comments on the changes. All the comments were reviewed, responses were developed and additional rule revisions were made based on those comments. Many comments merely asked for clarification and the Department provided that clarification. A significant number of comments supported the rule revisions and some comments included a general response to the proposed rule changes or were outside the scope of the rule promulgation process.

The Department responded to all comments including those opposing the rule revisions. In response to comments opposing the rule the Department either made modifications to the rule based on those comments or made no change to the rule. In cases where no changes were made to the proposed revisions the Department based its justification on existing data from accident reports, the national performance standards for health and safety, licensing rules from other states and other national research.

Once the final draft of the rules was completed and submitted to the Legislature, a link was added to the Department's Web site with the final draft of the rules. The public can access the draft rules, the Departments' responses to public comments as well as other child care information on the BRL web site at; www.dhfs.state.wi.us and click on the child/youth services link under Programs and Services.

Bureau staff attended statewide provider association conferences to present information on the rule revision process. As a part of these presentations, staff have had the opportunity to discuss with providers what changes are being proposed and to answer questions from providers on specific rule changes. Licensing staff in the regional offices around the state have also talked with individual child care providers about the proposed revisions.

During these discussions several issues have emerged as specific concerns of licensees. For instance, the existing rules related to the presence of pets in a center only require that animals be appropriately vaccinated against rabies and tolerant of children. Unfortunately, licensing staff has investigated several instances where a pet has injured or harmed a child in care. There is one case in which a child had an ear torn off by a provider's pet dog.

To help protect children, the Department has enhanced the section in the licensing rules that addresses the presence of pets in a child care center. The proposed changes include notifying parents about the presence of pets, limiting children's access to certain types of pets such as reptiles, exotic or wild animals and certain types of birds and restricting pet feeding dishes and litter boxes from areas accessible to children. The department is also proposing that providers will be required to have liability insurance coverage if cats and dogs are allowed unrestrained access to children in a center.

Other issues or questions included the prohibition on the use of trampolines in family child care centers and the prohibition on the use of swimming pools on the premises of a child care center. ~~Family child care providers were also concerned about some of the documentation we were requesting as well as entry level training requirements for additional providers in a family child care center.~~ The Department's response to all these comments are included in the summary of the hearing testimony.

The Bureau was diligent in its efforts to gain input from stakeholders and to involve the child care industry in the rule-making process. The Department is confident that the proposed rules will create a safer and healthier environment for children in child care centers without imposing unnecessary hardship on providers and licensees. The Department requests that the committee accepts and approves the proposed rule revisions as written.

Thank you for your consideration.

HFS 45-

Family Child Care

Tammy Schultz, Licensed

16040 Carhy Ann Cr.

Brookfield, WI 53005

262-790-2563

As a veteran provider in my sixteenth year operating a family child care business I am concerned about the proposed regulations. I feel many are written too vague leaving too much to interpretation and other important issues have been overlooked or minimized. I am in favor of a complete revision prior to approval.

One major concern is the background check every four years as stated in HFS 45.04(5)(b) + (c) HFS 46.04 (5)(a). When I was originally regulated it was every two years and I propose the regulation should be returned to this standard. I am concerned about the proposed change to do background checks on children over 10 (ten) years of age. I am offended to think my own children must be checked but not incoming children in my program over age ten. I also consider the possibility of my children's friends visiting during my hours of operation. Just as the children in my program may encounter children over ten at the park who don't have background checks they may also encounter children in my neighborhood and my judgement and ability should be sufficient to supervise. I am in favor of having the rule at age 12.

I am opposed to additional reporting as stated in HFS 45.04(3)(g) concerning any incident involving law enforcement that occurs on the premises or involves a person on the premises within 24 hours after the incident. I strongly feel this should be limited to during the hours of my programs operation and perhaps should only include anything relevant to child care i.e. domestic abuse, neglect, or hazardous conditions.

Concerning HFS 45.04(3)(i) changes in program services being approved by the department, I feel that if I am the one providing the services I should be the deciding factor not the licensor. My licensor is not going to be able to respond to petty changes in services on a continuous basis.

Regulation HFS 45.07(7) and HFS 45.07(7)(e) regarding all contact between children and animals be under the sight and sound supervision of a provider who is close enough to remove the child immediately if the pet or animal shows signs of distress or aggression or the child shows signs of treating the animal inappropriately. ~~and~~ I would like to point out that while my concern is always to ensure my children are supervised when interacting with my pets for the safety of both parties, I am realistic in acknowledging that it is no more feasible to prevent a child/child incident than it is to be able to be close enough at all times to prevent a

animal/child incident. We are very aware of our liability and use our best judgement in our efforts to ensure all interactions are positive ones.

I would encourage the department to change the HFS 45.04 (5)(e) to include regular health checks including TB test for providers at regular intervals such as every two years.

I appreciate the opportunity to voice these concerns. I am interested in promoting quality child care in Wisconsin and sincerely feel the concerns I have mentioned are sufficient to require further revisions. I have only addressed my primary concerns since I do not want to quibble over minor issues.

Thank you,

Tammy Shultz

Robert Schuelke

NEW GROUP CHILD CARE CENTER RULES

Helene Nelson (drafted by)
Wisconsin Department of Health and Family Services

Rule questions and concerns from:

Robert Schuelke, Program Administrator (home address – 1711 Rempe Drive, Waukesha 53186)
Sandra Schuelke, Program Director, Owner-Operator (home address – 16655 Willow Ridge Ln Brookfield, 53005)

Children's Learning Center, Inc. (childcare and preschool)
21005 Gumina Road
Pewaukee, WI 53072

As administrators of a preschool and childcare program that has operated in the Brookfield-Waukesha-Pewaukee area for thirty (30) years, we have concerns with the following rules:

Page 45 HFS 46.03 (8m) Course for credit "means a course that is worth at least 2 credits from an institution of Higher education."

Okay - Clarified meaning

What is the rationale for a minimum requirement of 2 credits as counting toward continuing education? UW-Milwaukee offers many 1 credit courses that some of our teachers use to renew their teaching licenses. A one credit course is still 16 hours of college credit, and most of the time is much more intensive than non-credit courses that are acceptable by the State.

Only for entry level education not continuing ed.

P. 46 (10m) "Emergency" Why is "no heat" listed, but loss of air conditioning is not? Why would extreme outdoor heat or cold be an emergency to a center? We would be inside with conditioned air or heat and would not have to worry about temperatures outside.

Illustrative but not to be inclusive or limited to

For "family situations," without precise wording there are a thousand different scenarios that could constitute an emergency. Are centers going to be allowed to have a broad contingency plan for this emergency, as it will be impossible to define exactly what may constitute a "family situation?" This is poorly written.

DHS will take @ clarifying laws -

P. 47 HFS 46.03 (30) states that "while awake and asleep ... child care workers who are within sight and sound..."

P. 57 states that "one child care worker shall be within sight or sound of each group of sleeping children."

Clarity

Situation not included such as not to be also inclusive

These two statements must be consistent, or either may be used to cite centers. P. 47 must be changed to read "within sight **OR** sound of sleeping children."

P. 48 HFS 46.04 (3)(h) "Change in room..."

What does this mean? If we want to use a room for threes, or fives, or school age, why does the department need to know? None of the rules are different for these age groups. Should this be defined by stating a room used for children under two? As it is worded, if we want to use a room for a center party, a magic show, etc. we would have to notify the department every time. This

X

HFS make ref. to use - Not intended to affect temporary changes to room

would result in not only unrealistic expectations and paperwork for a Center, but would never allow inspectors time away from their phones!

P. 49 (i) Some clarification is needed. If a child leaves the premises, definitely report that to the state. However, if a child hides in a room and we enact a missing child policy by searching all equipment, cabinets, etc, and the child is found hiding, do we need to report that to the state? This would result in excessive paperwork for centers and licensors.

P. 49 (k) Needs to be re-defined entirely. "Any incident" is everything. We had an incident where the phone in our wheelchair lift "called" 911 due a short in the wiring, and we had the police here. That does not need to be reported to the State. The specific incidents that should be reported needs definition.

Cops need to be kids. Safety checks. Programmatic

P. 49 (L) What does "any construction or remodeling" mean? Does it mean adding cubbies to a wall or painting, or adding blinds? As it's worded, such things supposedly "affect" the premises. This item needs clarification.

P. 49 #3 Background checks: Why is the State allowing 60 days for a check to be done? The idea was to become safer - but now a teacher can work an entire two months before having a complete background check? Online background checks take no more than two days, and mailing them should never take more than 30 days. This law does not need to be changed.

Remind in note - Best Practice

P. 49 "Prior to" should be changed to "by or on the first day" of attendance. If a child starts on a Monday and the parent does not bring in a form by that Friday, with the word "prior" it technically is a violation. If students change centers or start on short notice, this may be unrealistic for a parent to have the forms on file at the "new" Center "prior" to the start date.

P. 55 (b) On what basis does the department have the right to request an examination? This could be construed as an infringement on personal rights. It is the department's place to recommend that a Center ask employees to visit a doctor for an examination, and it is the Center's responsibility to ensure that the workers are competent. It is the Center's insurance that handles any risk and "covers" the staff, not the State. Allowing the department to "require" an examination of staff will open a veritable can of worms. Worst case scenario: a licensor does not get along with an owner or employee, and mandates an examination. We do not feel it is the place of an inspector to do so.

P. 56 # 6 CPR - This rule as designed is unrealistic. With a staff of 20+, it is not realistic to expect a staff member to be trained within six months. We rotate our staff members to be trained, about half one year, and the other half the following year. With the law as stated, we would have to have an in-house trainer to do CPR training. More realistic would be wording that states a Center should have a minimum number of staff members trained in first aide and CPR at the Center at all times, and have all staff members trained within 12 months.

P. 57 (h) Smoking - What does "premises" mean? This is a vague statement. Why will the state allow smoking when children are not present? If you have a crew working in the building on a weekend, and there is smoking, you will notice it on Monday. Plus, child care centers do

Chng

Chng

Chng

Comments manual?

Has been in rule all along. Done best things hand full time.

X

not have receptacles for used cigarettes, the odor lingers, and there is a fire danger. We prefer that child care centers be completely smoke free at all times. If there are situations where there is a conflict with other businesses (such as in a strip mall), could it be worded that free standing Centers are totally smoke free? Do premises include staff member's cars, delivery trucks, etc?

X **P. 57 HFS 46.06 (2) (k)** Hot Tub rules do not apply to group centers. Children under the age of 12 are not permitted in hot tubs anyway.

X **P. 60 # 5 and # 9** are identical items and one should be eliminated.

X **P. 62 # 3** Clarification on this rule is needed. For an unruly child who is lashing out and may hurt another student or staff members, are bear hugs allowed or are these against the law? Also, with EC students we have been instructed by EC teachers (within the public school system) that this practice may be done for the child's safety. Also, are seat belts allowed for safety of the children during feeding? If they are not using high chairs can they be bucked in for safety? We understand that binding or tying to restrict movement is a concern, but holding such as a bear hug does need to be done occasionally. Does a child then have to left alone somewhere to lash out? Are Centers going to be required to provide a "padded room?" Rules will be needed for special education students who attend child care centers.

X **P. 62 # 9** What does "based on a medical condition" mean? Does this mean a doctor's note is necessary for each child with an allergy listed on their form (i.e., we can't trust what the parents say)?

Commentary manual X **P. 63** Written authorization for medicine: Blanket authorizations are not allowed. What about for infants/toddlers who are teething? Can this be an exception for "as allowed" but require a phone call to the parent before actually administering the medicine? And require that the phone call as well as the parent name be entered in the medical log? For a suffering child whose parent is not able to pick up right away, disallowing phone approval for administration of Tylenol or infant gas drops is impractical and constitutes neglect if Centers are not allowed to keep such items "on hand."

X **P. 63 # 5** This rule is inconsistent with 46.04 (6) (a) 2. This section allows a Center to use the child enrollment form or a Center-designed form, but # 5 and the note only allows the State form. These two sections must be consistent. The note at the top of P. 64 needs to worded as allowing the state form or a Center form that includes the items listed on the State form.

Hold X **P. 64 (d)** Are existing pets going to be grandfathered? We currently have a water dragon and some fish that pose no danger to the children. This law is overly restrictive. We also offered a "wild animal show" program this summer, so that would no longer be allowed. Animals on premise teach the kids responsibility and how to care for them at home. Parents don't always have the capability of having their own pets, and some choose a Center because they have animals. It is a selling point.

Commentary manual
Add that a phone call could be

X **P. 64 46.08 (2)(b)3** Does the transportation permission form have direct correlation to consent for emergency medical treatment? We thought the transportation form was separate from the consent for medical treatment that appears on the registration (enrollment) form.

X **P. 65 HFS 46.08 (4)(d)** This law should have some clarification to allow a twelve year old or weight allowance for use of the front seat. We would be unable to use that seat which would be a waste. With a large child and/or older child, we should be allowed to use the front seat for transportation. Otherwise, what purpose would there be to a fifteen passenger van?

X **P. 68 (f) Physical or Mental Health of Staff** How can an individual licensing inspector make a determination to have someone tested? We have had several instances with various inspectors where we would have required them to be tested, unfortunately. Most inspectors are great to work with, but for several we question whether they were competent in their job. One we actually called in a complaint while they were here. This seems too "big brother-ish" to us. Will this determination be documented by a series of warnings, or recommendations by a committee? Is there going to be a procedure that will be followed when requiring a test? And how will that be documented?

We hope these comments help strengthen the laws and look forward to your reply.

Sincerely,

Robert K. Schuelke
Sandra Schuelke
Children's Learning Center, Inc.