

HFS 45-

Family Child Care

Tammy Schultz, Licensed

16040 Carthy Ann Ln

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 to 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 Schultz



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Wauwatosa, WI 53226
www.knowledgelearning.com

August 19, 2004

The Honorable Carol Roessler
Room 8 South
State Capitol
P.O. Box 7882
Madison, WI 53707-7882

Dear Senator Roessler,

We would like to take this opportunity to submit written testimony on behalf of Knowledge Learning Corporation regarding the proposed changes to the DHFS Licensing rules for the State of Wisconsin.

Knowledge Learning Corporation has 38 centers throughout Wisconsin and has been in business for over 30 years. During this time we have appreciated the support and guidance from the Department of Health and Family Services. This department has continually kept Wisconsin in the top 10 states for Early Education and has partnered with us on numerous occasions to continually improve quality care.

In August of 2003, we had the opportunity to voice our opinion at the public hearings on the proposed changes to the DHFS rules. We took that opportunity to provide verbal and written testimony. After having this opportunity, we received a very comprehensive document responding to not only all of our numerous comments, but the comments of everybody who testified in writing and verbally. Our praise to Anne Carmody, the author of this document, for making it clear, concise and easy to use. It included not only their decision but their reasoning behind those decisions. Although we may not always agree with every decision, we do agree that we were given due process to voice our opinions and concerns. The department also provided sufficient responses to public comment.

In summary, we fully support the steps the Department of Health and Family Services has taken to seek feedback from providers.

Respectfully,

A handwritten signature in black ink, appearing to read "Michelle Bethke".

Michelle Bethke, District Manager

A handwritten signature in black ink, appearing to read "Tammy Hammell".

Tammy Hammell, Regional Vice President

Knowledge Learning Corporation operates under the following names:

Knowledge Beginnings • Learning Universe • Children's Discovery Centers • Magic Years • Bianchi Schools • Building Blocks of Learning • Prodigy Child Development Centers
Club Discovery • Koala Care • Knowledge Learning Enterprises, Inc. • Children's World Learning Centers • Medallion School Partnerships
Knowledge Learning Employer Partnerships

NEW GROUP CHILD CARE CENTER RULES
Helene Nelson (drafted by)
Wisconsin Department of Health and Family Services

5692
653 comments
149 individuals

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.”

entry training level
only need to take 2 courses only up to 2

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.

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.

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.

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.”

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...”

Class room updates -
Change age ranges
large motor play

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

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.

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.

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

20-25
2000
staff

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?

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.

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

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.

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)?

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."

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 be worded as allowing the state form or a Center form that includes the items listed on the State form.

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.

(d)

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.

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?

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.

Public Hearing
HFS 45 – Family Child Care Centers
Gena Kraemer, Licensed Provider
2141 S. 80th Street
West Allis, WI 53219
414-545-4005

My name is Gena Kraemer, I am a Licensed Family Child Care provider from West Allis. I am in my 12th year providing care to the families in my community. I have an Infant/Toddler Professional Credential and am enrolled at MATC in pursuit of my Associates Degree in Early Childhood Education through the T.E.A.C.H. Wisconsin Scholarship program. My day care is closed for the day, in order for me to appear at this hearing.

Upon review of the revised HFS 45 Rules for Family Child Care Centers, I would have to say that I am disappointed in what I've read. First of all the definition (HFS 45.03(9)) of "Family child care center" or "center" means far more than "a facility where a person provides care and supervision for less than 24 hours a day for at least 4 and not more than 8 children who are not related to the provider." Children are cared for in our *homes*, with our *families*, these are not just facilities.

I have also read the responses from last year's public hearing. It does not appear to me that the department really listened to providers. Most issues were addressed with a standard department answer "The department feels that the rule is sufficient as written." The general consensus among providers I have talked to is that the department simply went through the motions of a public hearing with little intention of addressing our concerns.

I was very happy to see that it will finally be a requirement to have CPR training and that the department has defined the number of hours of independent study that can be used to meet the continuing education.

HFS 45.05(1)(b)4 & 5

Unfortunately there are a number areas that I feel the department has missed and in others gone too far. For instance, there are a few rules (*HFS 45.04(2)(e) Develop, submit to the department for approval, implement and provide to parents written policies and procedures related to all of the following...; HFS 45.04(2)(f) Develop, submit to the department for approval and implement a written orientation for any employees, substitutes, and emergency back up providers. The orientation plan shall cover all the items described in s. HFS 45.05(2)(a).*) that require providers to submit for department approval or require providers to report to the department. The term "submit to the department for approval" is what I have a problem with. I would like to retain some control over my business. My policies have always been available to the department so they can back me up if ever a client questioned/complained to licensing, now I read that the department will have final say in my business policies.

Additional reporting... (*HFS 45.04(3)(g) Any incident involving law enforcement that occurs on the premises or involves a person on the premises within 24 hours after the incident.*) Depending on the nature of the incident, it may not have any bearing on my child care. For instance, if my neighbor calls the police because my teenagers have the music too loud on Saturday night, then I need to report to licensing by Sunday night? Say, my house is robbed while I'm out of town for a weekend--some matters should still be my personal business. I understand however that there may be situations that should be reported to licensing, such as domestic assault, child abuse, drugs, things of that nature. Licensors are extremely busy, when will they be able to sort through all the additional reports?

Before a room can be used for the children it needs to be approved by the department, this makes sense, however, *any* change in room usage is a little over the top. For instance, when I have a full group of children, I sleep an infant in my room. When I do not have a full group a may not use my room as a nap room. I still want the flexibility to use it as a nap room, but not unless I really need to. According to this

rule, I would need to get prior approval for this and then when I take in more children and need the room again, I would then need 20 working days notice for pre-approval. Again, who has time for that? **(HFS 45.04(3)(h) Any change in room usage, such as changing the way rooms are used by children or using rooms not previously approved for use at least 20 working days prior to change. Changes in room usage shall be approved by the department prior the change.)**

HFS 45.04(3)(c) Any construction or remodeling that affects the premises of a center prior to the beginning of the construction or remodeling. If the construction or remodeling has the potential to affect the locations on the premises where children are served or a condition of the license, the construction or remodeling shall receive written approval by the department before the construction or remodeling begins. These premises are my home. I just have a problem with asking for approval before altering my home. Especially if I'm building a room in the basement, no where near my day care area, yet I need to report this to the department.

Program service changes need department approval **(HFS 45.04(3)(j) A change of any program service, such as changes in transportation or food services at the center and seasonal closings, at least 5 calendar days prior to the change. Changes in program services shall be approved by the department.)** This is still my business and if I decide I am no loner going to transport children, I should not need department approval; if I decide that I am offering dinner at 5:30, I should not need department approval; if I decide I want to hire someone to teach Spanish in my program, I should not need department approval. And again, who is going to sort through this? Licensors do not have time for this.

Another area I feel the rules are really overstepping are the new pet regulations. **(HFS 45.07(7))**

(HFS45.07(7)(e) All contact between pets or animals and children shall 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. & HFS 45.07(7)(f) Pets, pet feeding dishes, cages and litter boxes are prohibited in any food preparation, storage or serving areas.) We are family child care providers and our pets are part of our families. Rules have been added that require providers to outline in their policies all pets in the home and their relation to the children prior to children enrolling in the program. Providers are also aware of and concerned about the safety of the children and their pets. Children can be taught how to treat animals with love and respect. Many families choose homes with pets because they cannot for whatever reason care for a pet themselves yet their child can have the experience of caring for an animal at day care. The department will also require a current certificate of liability insurance on the pet(s) *(HFS 45.07(7)(h) A current certificate of liability insurance issued by an insurance carrier specifically covering the presence of dogs and cats shall be on file with the pertinent regional licensing office in appendix A if dogs or cats are allowed in areas of the center accessible to children.)* This certificate of liability insurance for animals does not exist by the way. Insurance companies do not offer liability insurance on pets, however I would hope that the department would be satisfied with a declaration page from the insurance company stating that the pet(s) are covered under the homeowner's or umbrella policies. Never the less, requiring the pet(s) to be insured will limit the types of animals that would be allowed in the home.

Most families do not restrict their pets in their homes because they are part of the family. As a matter of fact, in many instances when a new puppy arrives in a home the only place they are restricted to is the kitchen for the simple reason of sanitation—it's the easiest room to clean and disinfect. Many of my fellow providers do not have "extra" rooms in their homes where they can put pets and their supplies. Again, providers are concerned for the health and safety of the children they care for and would not intentionally put their children or their pets in danger.

I feel very strongly about these pet rules and for the record, I currently have goldfish in my day care.

The latter have been the rules that I feel the department is going over the top. The following rules I believe the department has really missed. For instance, *(HFS 45.04(5)(e) Except as provided under par. (f) a physical examination report on a form provided by the department that was completed within 12 months prior to or 30 days after the person become licensed to or began working with children. The report shall be dated and signed by a licensed physician, physician's assistant or Health Check provider. The report shall include the following:*

- 1. That the person is free from illness detrimental to children, including tuberculosis.*
- 2. That the person is physically able to work with young children.)*

After this initial exam, you never need to have another physical or be tested again! Does that really make sense when we have providers who have been licensed for years and years? But yet the department is concerned that we receive training every 2 years in child abuse and neglect. *(HFS 45.04(8)(b) The licensee shall document that each provider and substitute has received training at least every 2 years in all of the following:*

- 1. Child abuse and neglect laws.*
- 2. How to identify children who have been abused or neglected.*
- 3. The procedure for ensuring that all known or suspected cases of child abuse or neglect are immediately reported to the proper authorities.)*

In a day and age of cell phones the rule regarding a working telephone is not specific enough. *(HFS 45.06(2)(d) The center shall have at least one working telephone with a list of emergency telephone numbers...)* I feel the rule should specify that the center have a working land-line telephone that is not cordless. As we all know cordless phones are useless if the power goes out and a cell phone isn't locked into a location for 911.

Some other rules that I have issues with are:

(HFS 45.06(4)(b) An operable fire extinguisher with a minimum rating of 2A-10BC shall be provided for the kitchen and cooking area and inspected annually and a provider shall know how to use it.)

Can't this specify who should inspect it. I have been told by the department that the provider can inspect it themselves, however, I know some people have been written up because they did not have it professionally inspected. To alleviate future questions, just add "inspected annually by the provider"?

I also feel there should be an additional fire extinguisher needed when care is provided in the basement.

There is a potential for fire in an area that has a furnace, boiler, hot water heater, washer/dryer, etc.

(HFS 4506(11)(c)(7) When off-premises play space is reached by walking, the center shall transport children under 3 years of age in wheeled vehicles, such as strollers or wagons, with a seating capacity equal to the number of children under 3 years of age.)

This rule is under Off-Premises Play Space, I'm concerned that some licensors may expect providers to use this rule on a walk to the park or on field trips. Many children 2 years and older are fully capable of learning to walk while hanging on to a rope or stroller. Strollers large enough to accommodate a group of children where you need to have three or more in a stroller are very expensive \$479 - \$1100.

(HFS 45.07(5)(d) Accurate records of meals and snacks served to children shall be available for review by parents and licensing representative.)

How long do records need to be kept—daily, weekly, monthly? When some things are left to the discretion of a licensor there can be a great deal of difference in the interpretation. What is right for one licensor may not be good enough for another. Do we need to keep records of what the parents bring to supplement? Are food program records sufficient?

HFS 45.07(6)(f)(2) *Sunscreen and insect repellent may only be applied upon the written authorization of the parent. The authorization shall include the brand and ingredient strength of the sunscreen or repellent. Authorizations shall be reviewed periodically and updated as necessary. The recording of the application of sunscreen or insect repellent is not required.* This is how **HFS 45.09(4)(g)** should read.

HFS 45.08(6)(b) *Children under age 13 years may not ride in the front seat of a vehicle. If a vehicle has a front passenger side air bag, the air bag shall be deactivated and inoperable during the time a child is a passenger in the front seat.* Would this rule apply to our own children? My vehicle does not have a front airbag and some vehicles don't allow for you to deactivate the front air bag.

HFS 45.11(c)(2) *A completed background information disclosure form provided by the department for the applicant and, if the center will located in a residence, any household member aged 10 and above.*

If the department is concerned about children in my home 10 and above that I need a background check done, shouldn't I be concerned that I need background checks done on children who are 10 and older who are enrolling into my program? I serve children through age 12.

HFS 45.10 *Additional requirements for night care.* Who does the inspections for these?

The parents I talk to and have enrolled into my day care assume that if I am licensed, someone from the State of Wisconsin is checking in on me and my program on a regular basis. Are there licensors who work all shifts? All of these rules and regulations won't keep children safe if there is no one enforcing them.

Stegall, Jennifer

From: Williams, Kalida [Kalida.Williams@klcorp.com]
Sent: Monday, August 23, 2004 10:49 AM
To: Stegall, Jennifer
Cc: Hammell, Tammy
Subject: August 26th Hearing
Importance: High

Good Morning Jennifer,
Could you please forward this on to Senator Carol Roessler before the scheduled Senate Health Committee public hearing on Thursday, August 26, 2004.

If you have any questions please don't hesitate to contact me.

Thank you,

Kalida N. Williams

Administrative Assistant-Tammy Hammell, Regional Vice President

Knowledge Learning Corporation- Wisconsin Regional Offices

(414) 258-2829

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<<Senate Testimony.doc>>

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August 19, 2004

The Honorable Carol Roessler
Room 8 South
State Capitol
P.O. Box 7882
Madison, WI 53707-7882

Dear Senator Roessler,

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Knowledge Learning Corporation has 38 centers throughout Wisconsin and has been in business for over 30 years. During this time we have appreciated the support and guidance from the Department of Health and Family Services. This department has continually kept Wisconsin in the top 10 states for Early Education and has partnered with us on numerous occasions to continually improve quality care.

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In summary, we fully support the steps the Department of Health and Family Services has taken to seek feedback from providers.

Respectfully,

Michelle Bethke, District Manager

Tammy Hammell, Regional Vice President



August 26, 2004

To: Senate Committee on Health, Children, Families, Aging and Long Term Care

From: Jon Peacock, Director of Research and Analysis

Subject: Clearinghouse Rule 03-052 (amending the child care regulations)

The Wisconsin Council on Children and Families (WCCF) supports the proposed daycare rule changes for HFS 45 and HFS 46. WCCF agrees with the Department that the proposed changes will better protect the health, safety and welfare of children in the care of licensees. WCCF believes that updating training and orientation requirements will help increase caregiver skill levels. Other requirements to improve record keeping, prohibit smoking and hot tub accessibility, require safer sleeping practices for infants, additional restrictions on swimming pool use and additional requirements related to pets are all designed to increase the health and safety for children receiving child care services from licensees. In general, WCCF supports the proposed changes to both rules.

August 26, 2004

Senate Committee on Health, Children, Families, Aging and Long Term Care
State Capitol, Room 411 South
Madison, WI 53702

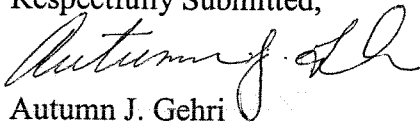
To: Senator Roessler, Committee Chair and Members of the Committee

Representing the Wisconsin Child Care and Education Coalition (WCCEC), I submit this statement pertaining to the Final Proposed Rulemaking Order containing revisions to HFS 45 (applications for family child care providers) and HFS 46 (applications for group center child care centers).

In particular, the Wisconsin Child Care and Education Coalition affirms the Department of Health and Family Services' (DHFS) process of soliciting and reviewing comments to the proposed licensing rule revisions collected via written submission and as oral testimony. We hope you will agree that "Proposed Administrative Rules – CR03-052; HFS 45 and 46 Analysis for Legislative Standing Committees Pursuant To S. 227.19(3), Stats" exemplifies an open and formative input process. As illustrated in the document's "position on revision" and subsequent "action," the department critically considered comments received throughout the review period and frequently amended proposed rule revision. When input did not result in a revision to a rule, thoughtful rationale was provided. Clearly, a forum for citizen and industry voice to the proposed licensing rule revisions has occurred.

The Wisconsin Child Care and Education Coalition defers to our individual member agencies to comment on the specific content of proposed licensing rules revisions.

Respectfully Submitted,



Autumn J. Gehri
Chairperson WCCE Coalition
744 Williamson Street Suite 200
Madison, WI 53703
608-240-9880 ext. 7229

Public Hearing
Comments

8-26-04



Child Care



Karen Narlow

Child Care Provider

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Public Hearing Comments
August 26, 2004
Proposed Rule Changes to HFS 45
Licensing Rules from Family Child Care Centers

GOOD MORNING-

My name is Karen Narlow. I am the owner/provider of Karen Kares Home Family Child Care-2315 Kensington Drive-Waukesha, WI 53188. License Number: 230140. I gave my comments at the public hearing held August 14, 2003 in Waukesha. I have attached a copy of those comments in my packet for this public hearing. I want to express my thanks to Rebecca of Senator Kanavas office for keeping me informed of what was happening in the Senate concerning HFS 45 and for listening and responding to my concerns and comments. I want to express my thanks also to Assemblyman Steve Kestell's office for their time and responses to my comments and concerns regarding HFS 45. I want today to express my appreciation to this panel for taking the time out to hear our comments again on these proposed changes. Changes that will directly affect our businesses and the families we serve now and in the future. I know that several of these rules have come from changes in memos and notices we have received as providers from the Department of Regulation and Licensing over the years since 1989 when this was last looked at but there are substantial changes in other areas of this rule.

I understand that these rules are made to protect the health and safety of not only the children in the child care but also the provider. However, what I would like the panel to understand from my point of view is that in the title of HFS 45 is "Family Child Care". Please remember that this child care setting is located in my home in a residential neighborhood. Family child care is exempt from zoning ordinances when it is used first as a home then as a business second. My

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family also must live in this home. Keep in mind that parents have a choice as to where to place their children in child care. They choose family child care and also choose which provider will take care of their most precious possession.

Following are some of my comments, concerns and requests for clarification on the revised proposed rule changes to HFS 45.

Again, I will start with a few positives:

I noticed on the revised proposal that there were a lot more Notes tacked on to numerous rules with helpful information and resources pertaining to that rule. This will be helpful to the provider. There is a commentary manual on these rules that can be found on the department's web site but not everyone has internet access. Also, not a lot of providers know about this manual. We do not receive a copy of it. The only thing we as providers see is what is written in HFS 45. While I understand that there must be wiggle room in these rules, every attempt must be made to be as specific as possible since this is what the provider sees he/she must be in compliance with in order to be licensed by the department of regulation and licensing.

For example, HFS 45.06 11 (3) regarding the statement on CCA treated lumber being sealed with an oil based sealant or stain. Why not put in there that this must be done every two years? If a latex base is ok why not put it in and tell providers.

HFS 45.03 Definitions (34) Supervision - for keeping word "or" in regard to sight and/or sound.

However, HFS 45.05 Staffing (3) Supervision (e) - may be unrealistic in a family child care setting - "A child shall have adult supervision at all times" - We do not watch them sleep and they sometimes are out of sight while playing in playhouses, play structures or playing behind bushes etc. in back yard, going

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Dept. Hearings*

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to the restroom even though we are around we are not always right there with them.

HFS 45.04 Operational Requirements (8) - Reporting Child Abuse -

Training every two years. I think this is a good idea just to refresh us on the reporting procedure and update us on any changes that have taken place to the procedures.

HFS 45.05 (4) - For adding how many independent hours may be used for meeting continuation education hours.

HFS 45.07 Program (6) HEALTH (a) Contact with others who are ill- While this rule gives us the permission to take sick days, I am still not sure how parents might feel when they have symptoms of illness and I tell them that they must leave their child at the door because they may not be in contact with the other children in care.

HFS 49.09 Additional requirements for infant and toddler care- For requiring SIDS training. As a provider who has experienced this in my child care and has been trained to present the SIDS workshop to other providers I support this change.

Now to the reasons that I have come here today to speak to you about HFS 45 and the proposed changes. Some of my concerns and they are not even concerns but more of a request for clarifications are as follows:

HFS 45.03 Definitions (36) - Universal precautions

referred to again in : HFS 45.07 (g) Personal Cleaniness (3)

I called the number that was given in these proposed changes in HFS 45.03 Definition (36) Universal Precautions. I got to an organization called NIOSH. When I explained to them what I was looking for they told me that I had the wrong

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number. The woman I spoke with gave me two numbers for local OSHA offices in Wisconsin. One number was an 800 number and one a local 414. I called the 800 number and spoke with Angela. She told me that the number I called was only an OSHA information line. I explained I was looking for Universal Precautions related to child care. She could not find anything but gave me some FACT sheets that could be found on the web site relating to blood borne pathogens. Angela then transferred me to Beverly in the OSHA Compliance and Guidance Department. I explained to Beverly what I was looking for and she could not find anything under Child Care or Day Care except for a letter of interpretation relating to bloodborne pathogens. The letter stated it did not apply to the child care in that particular situation. She then took me to the OSHA website while still on the telephone with her. She guided me to Regulations (standards-29-CFR) Coverage 1975.4 which basically states that unless you have an employee, OSHA standards do not apply to you. I have attached a copy of the information from the OSHA website to these comments and a summary of my telephone conversations. I would like to see a revision or clarification of the definition "Universal Precautions" in the rule itself or in an appendix etc. as it relates to family child care so that I myself know what I need to do in order to comply with the Department of Regulation and Licensing's interpretation of Universal (Standard) precautions from OSHA.

It is interesting when I went on line and downloaded Chapter HFS 45 with Commentary-Family Day Care Centers with Children that I found an Appendix for Blood Borne Pathogens. It listed a source to find out information on Blood Borne Pathogens but it was not the same agency that is currently listed in the Note found in the definition section of these proposed rules. A copy of this is also attached to my comments.

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HFS 45.04 Operational Requirements (3) Reports (c) which refers to any construction or remodeling that affects the premises of a center prior to the beginning of the construction or remodeling. (Please note in HFS 45.03 Definitions that "Premises" is defined "means the tract of land on which the center is located, including all buildings and structures on that land") The rule further states that written departmental approval shall be received prior to the construction or remodeling if the construction or remodeling has the potential to affect the locations on the premises when the children are served. I missed this one the first time around.

I am wondering if they can put in the time frame that it will take to get the written approval or an approximation like two to eight weeks; three months etc because my husband will construct or remodel anything on premises because it is his home. He also like to start on projects right away. If I tell the department about it, and they say no six weeks later- guess what - my husband is working or completely finished with the project all ready. Then what do I do??? What steps to I need to take? What will happen to me? A fine?? A license pulled?? An exception???

I have an example of this. I called my licenser in early spring because we were going to put in a pool this summer and I wanted to do it correctly so that I complied with all the rules. However, with the rule changes in progress she was relectuant to give me solid advice, which I can understand from her point of view because the rules were still in the revision stage. So, the project moved forward. Now, this past Sunday, I was discussing these rules with a former child care provider and my mentor who now works for a child care agency, playing devil's advocate I spoke to her about the swimming pool rules found in HFS 45.06

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Physical Plant and Equipment (12) Swimming Areas. We were talking about whether or not I had to have a locked enclosure surrounding my pool like a deck or fence. The way the rule currently reads now it does not sound like it because -

HFS 45.06 (11) (4) states a permanent enclosure not less than 4 feet high shall be provided where there are hazards nearby-one of which is water. We currently have a four foot fence around our yard which when my husband pulled the building permit from the city building inspector's office he was told met the city ordinance regarding pool.

Both sides of the fence are locked and they can not be opened by children so that meets HFS 45.06 12 (1) and (3).

There is never a ladder attached and all my equipment is located away from the pool so that meets HFS 45.06 12 (5) and part of (4).

So if my walls of the pool are about 4 feet in height I really don't need any enclosure around the pool itself that is locked. According to the rules. This is important because the pool sits right in the middle of the yard and my play space for my child care is in my backyard enclosed by the same 4 foot fence as the pool.

However- is that a smart idea to not have it enclosed- no. Will the licensers think the same thing yes! Do I comply with the rules - YES! Just for your information my husband did build a deck with 4 feet walls on the sides and 6 feet in back because it is built into a slope. Did we get additional liability insurance - YES!! Do I still think the pool is a hazard even with the safety my husband built into it. Yes. But this is my home and what my family wanted to do with the money that grandpa left us so I support it. My point is that everyone interprets rules differently. That is why while wiggle room is needed we also need some specifics.

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HFS 45.07 Program (7) PETS AND ANIMALS

As way of information, currently residing in our home are - 1 dog; 2 hamsters, 1 gerbil, 2 parakeets and goldfish. I don't have a concern with the rules regarding informing parents of pets in the child care or informing them of new pets coming in because they have a choice whether or not to have their children attend my child care program. Keeping the yard clean is a given.

(e) I am not as concerned about the requirement of "sight and sound" here because wherever I go, Arnie, our dog, usually follows me. So, when I am with the children so is he if he is not off napping. However (b) concerns me because it states pets that pose any risk to the children shall be restricted from the indoor and outdoor areas used by children. Any pet can pose a risk, even my dog, but if I have sight and sound supervision, why does he have to be restricted???? Isn't that the reason for sight and sound supervision?? The risk???

(f) This rule on feeding dishes is a concern because the kitchen is the only place in my home where I can put Arnie's food and water dish. He will not go into the bathroom because he is afraid of water and baths. I do not want to feed him on my new living room carpet. I have been doing child care for fourteen years. We have had two dogs during that time Max and now Arnie, both boxers. I have never had a child go over and start chowing down on dog food or play in the dog's water. I supervise my children when we are in the kitchen. Most of the time when they are in the kitchen they are sitting at the table or in high chairs and are not roaming around. The kitchen is the place we eat, not play. Please note that I have a separate area for child care so the kitchen is not an integral part of our day like it might be for other child care providers.

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It will also be next to impossible to keep the dog out of the kitchen since it is on the major pathway through our home. Most homes are set up with the kitchen as the center or heart of the home. You usually have to go through the kitchen to exit or enter a home.

(h) This has to do with liability insurance. I would like a clarification here most of all. The words "current certificate of liability insurance" to me means that I have to have a policy with a declaration page to comply with this rule. Again, here we have matters of interpretation. The department may have something completely different in their minds that will be in compliance with this rule.

Last year before the public hearing, I called my insurance company, American Family, and they told me that my dog was covered under the liability section of my home owner's insurance. I called early August again this year to ask if they could send me a letter regarding the liability coverage on my dog in my home owner's insurance. Unfortunately, they can not issue a letter per their underwriter, but they did send me a memo and a copy of the policy I have plus a brochure on the coverage of that policy that shows my dog is covered. What I am wondering is- Is this enough proof for the department of regulation and licensing to see that my dog is covered???

I called two other companies regarding coverage:

The first was Thomco - touted in a postcard I received to be selected by NAEYC and recognized by NAFCC for "effectively addressing all your most important insurance needs". I called in August of 2003 and early this August and was told the same thing - my breed of dog is fine for coverage but because he is around the children they won't cover me. Please note on the copy of their application that I gave you in my packet on the second page they specifically list breeds of dogs that

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they will not cover. If a provider has one of these breeds of dogs how will they get coverage in order to be in compliance with these rules????

I also called a company that carries commerical day care liability policies. If I have to get additional coverage it will cost me:

West Bend Mutual:

Liability Insurance - 300,000/600,000	\$375
Dog and Cat Rider- 50,000/50,000aggregate	75
	450.00

This is on top of the \$493.00 I paid for my homeowner's policy.

I have attached copies of this information to these comments.

This last comment I have deals with an issue that I had with my licenser on her last visit. I was changing a baby and she asked me where my barrier was on my changing table. I looked at her and told her that in my 13 years no one has asked me that question or told me I needed one. I asked her to show me in the rules where it said that I had to have a barrier on my changing table. She looked for a good long time and could not find it. Again, my point is that we have to comply with the rules in HFS 45. I know that there is a commentary manual, but what the providers see is only in HFS 45. Not every provider has internet access and can download the interpretation manual, and we do not get a copy of it when we get a copy of HFS 45. What we need to comply with and how we are to comply with it should be stated as much as possible, more than it is now, in HFS 45. Now to my last comment, in

HFS 45.09 Additional requirements for infant and toddler care-

(4) Diapering and toileting (c) if diapering surface is above floor level, provide a barrier or restraint to prevent falling... My husband made my changing

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table from solid oak when my son was born. It will not take a standard strap (I would have to make one) or he would have to alter it to put a barrier (another piece of oak) on the front part of it. Since the word "barrier" was not defined in Section 45.03 Definition. Would I, as a human barrier, meet this rule?? I would never leave a child on a changing table and have not had a child fall off one in 14 years.

While I understand the HFS 45 watches out for the health and safety of the children in my care, I also want to again point out that the word "family" is in the title of HFS 45 - Licensing Rules for "Family" Child Care Centers. I believe in my first email to Anne Carmody after my first read through of the rule changes I told her I honestly expected a rule to state that I had to install a red lighted exit sign above the door where parents enter and exit my home. I open my "home" to the children and families I care for knowing that there are risks involved in doing so. I have chosen early childhood and family child care as my career. However, this business is run out of a home that I must share and live in with my family. My husband and children have sacrificed space, belongings, privacy, wife and mother to my career choice as a family child care provider.

Parents choose family child care because of its "home like" setting and smaller group size, mixed ages and numerous other reasons. I am well aware that I am holding and molding the future in my hand. I know that the children I take care of today will be taking care of me some day. I want them to provide me with the same quality care I am giving them.

I am just asking you to remember this is a home in a residential neighborhood that I live in with my family and my extended child care family.

Thank you.

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Attachments:

- 1) Public Hearing Comments from 8/14/03
- 2) Information I obtained from OSHA and it's website
- 3) Information I obtained from insurance companies regarding liability insurance and coverage for pets.

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Good Afternoon-

My name is Karen Narlow. I am the owner/provider of Karen Kares Home Family Child Care - 2315 Kensington Drive-Waukesha, WI 53188. License number: 230140

Following are some of my comments, concerns and requests for clarification from the department on the proposed rule changes to HFS 45:

First let me start with the positive-

I like the addition of the CPR requirement for providers, and the training requirements for SIDS and Child Abuse and Neglect.

I would also like to thank you for giving us the option of taking sick days when sometimes we need them under HFS 45.07 (6) (a) (1). However, I don't know how parents will take it when they come in with a cold and I have to stop them at the door to drop of their child because they "can not be in contact with the children in care."

Some of my comments and concerns are as follows:

1) Supervision: In section 45.03 Definitions (33)-

The definition refers to sight or sound except as specified in HFS 45.04 (3) (i) and (j) and 45.06 (7) (e)

When I looked up these references:

HFS 45.04 (3) (i) and (j) - I believe it is found on page 9 - (i) deals with reporting suspected abuse and neglect and (j) deals with changes in program services- both of which I can not connect to supervision.

HFS 45.06 (7) (e) - I believe it is found on page 17 - deals with exits and I could not find a (7) (e)

I found other references to supervision of children in the following sections:

HFS 45.05 - Staffing -(3) (a-k) (page 14 and 15)

Here in (i) it requires sight and sound supervision during meals and snacks

In (j) it requires sight and sound of children under 5 while outdoors

I have a question in reference to the use of "sight and sound"-

1) During meals- I have had two and three year olds that have had to go potty during snack or lunch. As one person, do I have to take away them all away from their food and take them all with me to the bathroom when this happens? OR Can I leave them in their high chairs or booster chairs at the kitchen table or in child care area in high chairs or sitting at the table with the food while I take the child to the bathroom where although they are not within my sight- I can still hear them.

2) When I am outside they like to run behind my lilac bushes or play in the space shuttle or playhouse. When they do this they are temporarily out of my sight but not my sound. Do I have to cut down the bushes and get rid of the equipment?

In my mind, I simply can not see being able to keep them all within my sight and sound at all times during these times of the day being the only adult in the home providing supervision for the children.

2) **Universal Precautions:** In section 45.03 Definitions (35) it references the US Occupational Safety and Health Administration (OSHA) 29 CFR 1910.1030 as far as "measures taken to prevent transmission of infection from contact with blood or other body fluids or materials having blood or other body fluids on them." (page 7)

I would have no idea what OSHA requires and would request an appendix in the back of the book so I know what is expected of me. Is it more than what is found in HFS 45.07 Program (g) Personal Cleanliness Numbers 3 through 5 (page 27). The appendix would probably also help to clarify and define where the words "universal precautions" is used.

3) **Meals and Snacks:** HFS 45.07 (5) (f) (page 24)

I just want it clarified that I am reading this correctly. The provider does not need to supply additional food to meet USDA requirements for meals and snacks when the parent brings food for their child to the family child care home that does not meet these requirements as long as the provider has supplied them with "information about the requirements for food groups and quantities, specified by the U.S. Department of Agriculture Child and Adult Care Food Program minimum meal requirements.

4) **Pets:** HFS 45.07 Program (7) (a-i) (pages 28 and 29)

I guess this whole section confuses me. It is such a contradiction of terms.

(b) Pets that pose any risk to the children shall be restricted from the indoor and outdoor areas used by children.

As a family child care provider I use my whole home for child care indoors and outdoors. Any pet can pose a risk. Currently my home is occupied by 1 hamster, 6 gerbils, 2 parakeets, 1 dog (Boxer) and 2 aquariums with fish. There is really no way I can restrict my pets. This rule basically tells me that I should have "NO" pets.

However the rest of this section (a) and (c-i) tells me what I should do if I HAVE a pet. To me that is a contradiction. However, if I can have pets and (a) and (c-i) hold then I have a couple of comments and concerns:

- 1. I do not have a problem with letter c that requires parents are aware of the presence of animals and getting their permission if pets are allowed where the children are or if animals are added. My parents know at the interview what animals I have and how they interact within the child care setting and with the children.**
- 2. I do not have a problem with the sight and sound supervision contained in (e). Most of the time my dog follows me wherever I go so he is usually within sight and sound anyway. By the way, my dog is gated part of the time during the day away from the day care children because I have a parent who is not comfortable around dogs. Her child likes Arnie but I gate him out when we are inside out of respect for the parent's wishes. He usually lays on the opposite side of the gate so he is by us but not in by us. She knows he goes outside with us.**
- 3. I do not have a problem with (g) because before we get going outside we usually have "Poop Patrol".**

However, I do have a problem with the following two:

1. (f) regarding feeding dishes not placed in food preparation area or in areas accessible to children. Arnie's dishes are in the kitchen. I do not want to move these into the living room and feed him on my new carpet. I am having a hard enough time having the dog food on my new hardwood floor in the kitchen. Basically, the kitchen is the only and logical place I can have his dishes. Arnie is a grazer- he eats at 5 a.m. - between 11:00 and Noon and again at 4:00 p.m. So, his food is available to him all the time. The children are taught not to go by Arnie's food and water and since they are on the floor they are not really where I prepare food on the counter.
2. (h) regarding the certificate of liability insurance- I would like clarification. I called my insurance agent and was assured the dog was covered under the liability insurance on my homeowner's policy whether or not I ran a child care business in my home. (They do not cover dogs like Rotweilers etc but she said a boxer would be covered) Since I have a day care rider on the policy they know I have a child care business in my home and I also checked off running a business in my home on the application.

Will the declaration page of my policy be enough or will the declaration page plus a letter from my agent satisfy this rule or will I have to go out and get a commercial liability policy. I have checked into this all ready and it will cost about \$375-500 a year for liability insurance and coverage on the dog through NSI a division of West Bend Mutual. Add that to my homeowners and I'm paying between \$800 to \$1,000 a year to cover liability for my dog. Not something I want to do or can afford to do!!! I also contacted Thomco- " insurance program

selected by NAEYC and recognized by NAFCC for effectively addressing all your most important insurance coverage needs" according to the postcard I received. Per Colleen, although a boxer meets their guidelines for dogs, they also will not cover dogs such as pit bulls etc., they will not cover you if the dog has access to the children. How can I get insurance if I meet up with companies like this????

In conclusion, I would like to state that Family Child Care itself and these proposed rule changes are a Catch 22. While I understand why the proposed rules are being made - in order to protect the health and safety of the children in care as well as the provider - I also need to stress to the department the word "FAMILY" in the title of the HFS 45 - Licensing Rules for "Family" Child Care Centers. I am a Family Child Care Provider. I open my "HOME" to the children that I care for and understand the risks involved in doing so. While family child care is my career and my business, I still run this business out of my HOME which I must live in with my own FAMILY. I do not live in a commercial building in a business district but in a home in a residential area. In that home resides my husband and children who have already sacrificed their space, belongings, privacy and wife and mother to this family child care business. Please don't make them sacrifice their animals or get to the point where an Exit sign is required above the door when my day care families come in. This a family child care home and parents chose this type of care because of the home like quality. Remember also that parents have a choice of where to put their children during the hours in which they work.