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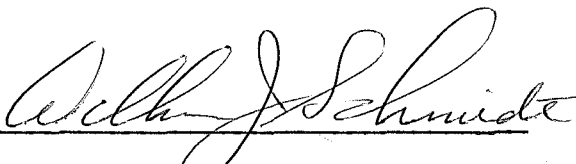
PW-CY 40.01-  
114

ORDER OF THE STATE DEPARTMENT OF HEALTH  
AND SOCIAL SERVICES CREATING  
RULES PW-CY 40.10-40.15

Pursuant to authority vested in the State Department of Health and Social Services by section 15.05 (1) (b), Wis. Stats., the State Department of Health and Social Services hereby repeals Rules PW-CY 40.01-40.11, (Rules and Standards for Day Care Centers), recreates Rules 40.10-40.11 and creates Rules PW-CY 40.12-40.14, (Rules for the Licensing of Day Care Centers for Children). The rules as recreated and created are attached hereto.

Rules ~~40.01~~-40.11 are repealed effective March 1, 1971 and Rules 40.10-40.11 as recreated and Rules PW-CY 40.12-40.14 as created shall take effect on March 1, 1971 pursuant to the authority granted by section 227.026 (1) (b), Stats.

Dated: July 14, 1970      State Department of Health and Social Services

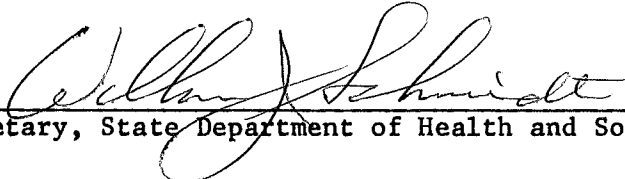
  
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Wilbur J. Schmidt, Secretary

STATE OF WISCONSIN )  
 ) ss.  
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

I, Wilbur J. Schmidt, Secretary of the State Department of Health and Social Services, and custodian of the official records of said Department, do hereby certify that Rules PW-CY 40.01-40.11 were repealed and Rules PW-CY 40.10-40.11 were duly recreated and Rules PW-CY 40.12-40.14 were duly created by the State Health and Social Services Board on June 24, 1970 as shown by the copy annexed hereto.

I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at the State Office Building in the City of Madison, this 14 day of July, A.D. 1970

  
Secretary, State Department of Health and Social Services

RULES FOR LICENSING DAY CARE CENTERS FOR CHILDREN

PW-CY 40.10 INTRODUCTION

(1) STATEMENT OF INTENT

The intent of these rules is to protect and promote the health, safety and welfare of children in day care centers in Wisconsin.

(2) EFFECT OF RULES

The following rules for licensing have the full effect and force of law as provided in section 227 of the Wisconsin statutes. These rules do not repeat the laws related to day care licensing. Persons using these rules should also be aware of and familiar with the statutory sections related to these rules so that they are knowledgeable about the requirements of the law as well as the rules.

(3) TO WHOM THE RULES APPLY

The rules apply to all day care centers for children.

(4) EXCEPTIONS TO RULES

The Department may make exceptions to any of the rules for licensing day care centers when it is assured that granting such exceptions is not detrimental to the health, safety and welfare of children.

(5) DEFINITIONS

The following words and phrases have the designated meanings:

- (a) DEPARTMENT unless qualified means the State of Wisconsin Department of Health and Social Services.
- (b) DIVISION unless qualified means the division of family services of the Department.
- (c) RULE means a regulation, standard, statement of policy or general order (including the amendment or repeal of any of the foregoing) of general application and having the effect of law.
- (d) DAY CARE CENTER means a licensed facility where a person or persons provide, for compensation and/or consideration for service, group care for four or more children under seven years of age, for less than twenty-four hours a day. A day care center may be licensed as:

1. A day nursery, which must meet all the rules for licensing day care centers, or as
2. A nursery school, which must meet the requirements for day nurseries and in addition, for each twenty-five children, must have at least one staff member certified as a nursery school teacher by the Department of Public Instruction or a staff member who shows evidence of meeting the qualifications required for such certification.

(e) COMPENSATION

means payment for day care. This payment can be in the form of a cash fee or in the form of consideration for service performed.

(1) PURPOSE

- (a) Each day care center shall set forth a clearly defined statement of purpose which shall be filed with the Department. If the center is incorporated, the constitution and by-laws may be filed with the Department in place of the statement of purpose.

(2) ADMINISTRATION

- (a) The board of directors or the owner shall be legally responsible for the operation of the center and for meeting the rules.
- (b) The board of directors or owner shall establish written policies on the following:
1. Admission and discharge of children.
  2. Fees charged.
  3. Personnel practices which shall include hours of work, vacation, sick leave, leave of absence and salary schedule.
- (c) The board of directors or owner shall establish written operating policies which must have the approval of the Department on:
1. The delegation of administrative authority.
  2. Ages of children accepted by the center.
  3. Maximum number of children in the center.
  4. The program, including the health, nutrition, educational and social services.
- (d) The board, owner or administrator shall report children who are or appear to be abused or injured by persons other than by accidental means to their county welfare agency, the sheriff of the county, or the city police department in compliance with s. 48.981 of the Wisconsin statutes.
- (e) The board or owner shall be responsible for surveillance that the center does not discriminate in its personnel practices, intake and services on the basis of race, color or national origin.
- (f) The board or owner shall carry liability insurance.
- (g) The board or owner shall be responsible for the development of an annual budget, a copy of which shall be submitted to the Department when requested.

- (h) The board or owner shall be responsible for submitting the statistical reports required by the Department.
- (i) The board, owner or administrator shall submit to the division a special report within 48 hours after occurrence of an unusual accident such as the death or serious injury of a child while at the center (a serious injury being defined as one requiring hospitalization of the child); or, after the occurrence of a fire which requires the services of a fire department.
- (j) The board or owner shall provide for workmen's compensation insurance in accordance with chapter 102 of the Wisconsin statutes and comply with provisions of the federal social security act.
- (k) The board, owner or administrator shall be responsible for maintaining a record on each child enrolled. Each record shall include:
  - 1. Name and birthdate of the child.
  - 2. Full names of the parents or guardian.
  - 3. Home address, work address, and telephone number of parents or guardian.
  - 4. Name, address and telephone number of physician caring for the child.
  - 5. Name, address and telephone number of person to be notified in case of emergency, when parents or guardian are not available.
  - 6. Written consent from the parents or guardian for emergency medical care or treatment to be used only if the parents or guardian cannot be reached immediately.
  - 7. Record of the current physical examination and any other matters relating to the child's health. Specific instructions obtained from a physician for the feeding and care of any child with special problems shall be written on the child's record.
  - 8. Enrollment and termination date.
  - 9. Record of daily attendance of each child.
  - 10. Names of persons authorized to call for the child.
  - 11. As part of the intake procedure for a child under 2½, a statement from the parent about the specific habits of eating, sleeping, toileting, communication and comforting.
- (l) The board, owner or administrator shall be responsible for maintaining records for each employee which shall include:

1. Name, address, age, training, education, experience, and other qualifications.
2. Report of physical examination at the time of employment and subsequent annual examinations, (as specified in PERSONNEL RULES (1) (b), PW-CY 40.12).
3. Persons to be notified in the event of an emergency.
4. Two references from persons other than the prospective employee's family who can vouch for the person's integrity, emotional stability, and suitability to work with children.

(3) APPLICATION

- (a) An initial application for a license and subsequent applications shall be filed by the board of directors or owner of a day care center on forms provided by the Department.
- (b) The initial application shall be submitted at least 60 days prior to the date the center proposes to begin operation.
- (c) Subsequent applications shall be filed with the Department:
  1. No later than 3 weeks prior to the end of the current licensing period.
  2. When opening an additional center.
  3. When changing the address of the facility.
  4. When there is a new owner.
- (d) A written amendment to the license shall be secured from the Department by the board or owner prior to any changes in the conditions of the current license (i.e., maximum number of children, age range of children, and hours and days of the week in operation).
- (e) The license certificate shall be on display.

(1) QUALIFICATIONS OF STAFF (including paid and non-paid staff)

(a) Educational Qualifications

1. The person who has primary responsibility for children in a center shall:
  - a. Be at least 21 years of age,
  - b. Have a completed high school education or its equivalent as determined by the Department of Public Instruction.
  - c. Have a minimum of one course in early childhood education or child development as approved by the Department or be presently enrolled in such a course.
2. In addition to the qualifications in #1a, b and c above, the person who has primary responsibility for children in a center for 9 or more children (i.e. administrator, director, head teacher, child caretaker) shall have:
  - a. Two full years of credit in an institution of higher education with at least one course equivalent to early childhood education, or
  - b. A Department approved in-service training course and one additional course in early childhood education or child development approved by the Department, or be presently enrolled in such a course.
3. The person who has secondary responsibility for children (i.e., assistant teacher, aide) shall:
  - a. Be at least 18 years of age.
  - b. Have completed or be enrolled in a child care course approved by the Department. Parents serving as staff in a parent cooperative may be exempt from this rule if they have 4 hours training in day care programming and procedures before working in the classroom.
4. A nursery school teacher in a center licensed as a nursery school shall have or show evidence of meeting qualifications for a nursery school teacher's certificate issued by the Wisconsin Department of Public Instruction.
5. Volunteers shall have at least 4 hours of training in day care programming and procedures before working in the classroom.
6. In the absence of regular staff members:
  - a. There shall be similarly qualified substitutes, or



- b. In the event the regular staff member's absence is not anticipated to exceed 3 days, a person not meeting the educational qualifications may substitute if a qualified person is not available. Such a substitution shall not exceed 5 consecutive days.

(b) Health Qualifications

1. All persons who come in contact with children shall have a health examination within one year prior to employment and annually thereafter from the date of the last examination. The report, dated and signed by a licensed physician, shall be on file in the center and certify that:
  - a. The person is free from illness detrimental to children, and has had a negative tuberculin test or chest X-ray.
  - b. The person is physically and emotionally able to work with young children.
2. All persons shall be excluded from the day care center when ill, including such conditions as upper respiratory infections, and infectious lesions. Persons with contagious illnesses such as mononucleosis, streptococcal and staphylococcal infections shall have a physician's release before returning to work.
3. No person with a health history of typhoid, paratyphoid, dysentery, or other diarrheal diseases shall reside or work in a day care center until it is definitely determined by appropriate tests that such person is not a carrier of these diseases.
4. In addition to the above health requirements, all food handlers shall have a yearly negative chest X-ray.

(2) STAFFING AND GROUPING

- (a) In a day care center with 9 or more children present, there shall be at least 2 adults available at all times in the building.
- (b) In the day care center for 8 or less children, there shall be a second adult who meets the qualifications available within five minutes. There shall be a signed statement on file at the center certifying to the second person's availability and agreement to serve.
- (c) A child under 2 years of age shall be enrolled only in a day care center where there are no more than 8 children in the group.
- (d) The maximum number of children in a group and the ratio of staff to children shall not exceed:

	<u>Maximum Number of Children in a Group</u>	<u>Minimum Number of Staff to Children</u>
Infant to one year	6	1 to 3 children
One to 2 years	8	1 to 4 children
2 to 2½ years	12	1 to 6 children
2½ to 3 years	16	1 to 8 children
3 to 4 years	20	1 to 10 children
4 to 5 years	24	1 to 12 children
5 years or over	32	1 to 16 children

- (e) When there is a mixed age group, the adult-child ratio shall be adjusted on a pro-rata basis according to age.

(3) VOLUNTEERS

- (a) For the purpose of these rules a volunteer is a person who agrees to give regular or occasional time to work with children at a center.
- (b) All volunteers shall have, prior to contact with children and annually thereafter, a negative tuberculin test or X-ray.
- (c) When volunteers are used, they shall work only under the supervision of the child care staff.

(1) GENERAL RULES

(a) Buildings

1. There shall be a report of inspection by the Department of Industry, Labor and Human Relations or by a certified investigator of that Department as evidence of satisfactory compliance with state building codes.
2. Only floors having at least 2 exits to the ground level shall be used for children.
3. Space designated for use by the children shall be available for the children only and not used for other purposes while the center is open.
4. There shall be a minimum of 20 foot candles of illumination throughout every room used by children as measured on a light meter maintained on a horizontal plane 24" above the floor.
5. Doorways and windows left open for ventilation shall be screened.

(b) Protective Measures

1. Fireplaces, steam radiators, and hot surfaces such as steam pipes, shall be protected by screens or guards.
2. Dangerous items, such as drugs and firearms which are located anywhere on the premises, shall be under lock and key.
3. Materials harmful to children, such as cleaning materials and matches, shall be kept out of the reach of children.
4. Each floor of the day care center shall be equipped with the required number of fire extinguishers approved by the Underwriters' Laboratories. Automatic carbon tetrachloride extinguishers are prohibited.
5. All staff members must be instructed in the use of the fire extinguishers.
6. Each extinguisher shall be inspected by a competent person once a year and shall bear a label indicating its present condition and the date of inspection.
7. The center shall have at least one telephone with a list of emergency telephone numbers such as the local rescue squad, fire department, police department, and emergency medical service posted on or beside each phone.

8. Each center shall have a plan for the evacuation of the center.
9. The premises shall be free from litter and in a sanitary condition. Garbage and rubbish containers shall be emptied daily or more often as needed.

(c) Water

1. A supply of safe drinking water shall be readily available at all times from a drinking fountain of the angle jet type or by use of disposable cups.
2. The water supply shall be of safe, sanitary quality and shall be obtained from a water supply system the location, construction, and operation of which shall comply with the standards approved by the Department of Natural Resources.

(2) INDOOR SPACE

- (a) The space used by the children shall include 35 square feet of floor space per child. This space is exclusive of hallways, bathrooms, lockers, office, storage areas, isolation quarters, staff rooms, furnace room, and that part of the kitchen occupied by stationary equipment.
- (b) Separate playrooms shall be provided for school age children while children under five are napping.
- (c) All furnishings shall be durable and safely constructed so that there are no sharp, rough, loose, or pointed edges.
  1. There shall be chairs and table space for each child of appropriate height and size for children's comfort and reach.
  2. There shall be low shelves for the placing of the children's daily equipment.
  3. There shall be space for children's clothing and personal belongings.
  4. There shall be storage space for cots, bedding, and surplus equipment not used each day.

(3) OUTDOOR SPACE

- (a) The rules on outdoor space shall apply to any center where children are present for 2 or more hours per day for 2 or more days per week.
- (b) There shall be at least 75 square feet of play space for each child using the play area at a given time. An exception may

be granted when 75 square feet is not available for all children if there is a plan to use the available space in shifts. The plan must be approved by the Department.

- (c) The outdoor space shall be enclosed in such a manner as to provide protection.
- (d) The outdoor space shall be well drained and free from hazards.

(4) KITCHEN

- (a) Facilities for preparing, serving, and storing foods shall be clean and equipped for the safe handling of food.
- (b) Dishes and utensils shall have smooth hard surfaces which are free from cracks, chips, and roughened areas. They shall be stored in such a manner as not to expose them to contamination.
- (c) Food storage and handling shall comply with the current written recommendations of the division of health.
- (d) Dishwashing procedure and care of equipment shall comply with the current written recommendations of the division of health.

(5) WASHROOM AND TOILET FACILITIES

- (a) Toilets of the water flush type shall be used and connected with a sewage system which has been approved by the division of health if of the septic tank, soil absorption type or by the Department of Natural Resources if of the type that provides surface disposal of the treated effluent.
- (b) If washbasins and toilets are not proportioned to the size of the children, steps or blocks shall be provided.
- (c) The following ratio of facilities shall be provided:

<u>Number of Children</u>	<u>Washbasins and Toilets</u>
1 to 10	1
11 to 25	2
26 to 40	3
41 to 55	4
56 to 70	5
71 to 85	6

(1) ESSENTIAL PROGRAM QUALIFICATIONS

(a) All day care centers

1. There shall be a planned program appropriate for the age of the children. The program shall provide each child with:
  - a. Opportunity for active and quiet activities,
  - b. Opportunity for outdoor activity,
  - c. Opportunity for individual and group activity,
  - d. Opportunity for experiences in which he can progress at his own rate,
  - e. Opportunity for creative expression,
  - f. Opportunity for intellectual stimulation and
  - g. Protection from excess fatigue and overstimulation.

(b) Additional program qualifications for a center providing care for more than 4 hours for any child:

1. Special consideration shall be given to planning activities for the early morning and late afternoon hours for children who are separated from parents for more than 4 hours.
2. When a session is more than four hours in length, there shall be a nap or rest period of approximately one hour or longer for all children under 5 years of age. Those who sleep shall be permitted to get up as soon as they waken.

(c) Additional program qualifications for centers serving children under 2 years of age.

1. The non-walking child shall have opportunity during each day for freedom of movement such as creeping and crawling, in a safe, clean, open, uncluttered area.
2. Each child shall have individual personal contact and attention from an adult, such as being held, rocked, taken on a walk inside and outside of the center, talked to and sung to.
3. Each child shall be closely supervised.
4. Each child shall be allowed to form and observe his own pattern of sleep and waking periods.
5. There shall be no routine attempt to toilet train infants before 18 months.

(2) FOOD

- (a) Children shall be provided a mid-session snack or beverage when present for from 2½ to 4 hours. One meal shall be served plus a mid-morning and a mid-afternoon snack if the session is more than 4 hours, and a second meal if the session is more than 10 hours.
1. Food shall be served at flexible intervals, but no child shall go without nourishment for longer than 3 hours. Fruit juice substitutes if used shall not be considered as nourishment.
  2. Each meal shall supply at least 1/3 of the daily needs of a child.
  3. Staff shall eat with the children.
  4. A child under 2 shall be fed on his own individual feeding schedule and held for bottle feeding.
  5. All milk used for drinking shall be pasteurized grade A.
  6. Food and bottles brought from home for children under 2 shall be labeled with the child's name and refrigerated. Bottles shall be rinsed when empty.
  7. Current menus shall be available for review.
  8. No artificial sweeteners shall be used.

(3) HEALTH

- (a) Each child shall have a physical examination by a licensed physician not more than 90 days prior to nor later than 30 days after admission to the day care center and annually thereafter. The report, dated and signed by a licensed physician, shall be on file in the center. The examination shall include:
1. A health record which states that the child has been or is being immunized against diphtheria, whooping cough, tetanus, poliomyelitis, mumps, measles (rubeola), German measles (rubella), and vaccinated for smallpox and the approximate dates.
  2. Necessary booster shots shall be administered to children in care at time intervals recommended by the American Academy or the Academy of Pediatrics or the division of health.
  3. A record of tuberculin testing, the name of the test used, date and the result of the test.
  4. Immunization and tuberculin testing not permitted by the child's physician shall be so stated, dated and signed by a licensed physician.

5. In addition each child under 24 months of age shall be given a medical examination by a licensed physician every 6 months after admission.

(b) Health practices and the controlling of communicable diseases:

1. A daily observation of each child on arrival at the center shall be made by a person capable of recognizing common signs of communicable diseases or other evidence of ill health. Staff shall be alert to symptoms of illness throughout the day.
2. Temporary isolation shall be provided for children with a cold, sore throat, inflammation of the eyes, fever, lice, rash, vomiting, diarrhea or other illnesses or conditions. Such temporary isolation shall be used until they can be removed from the center. Isolation shall be within sight and hearing of a staff member.
3. Parents, or the designated responsible person when parents cannot be reached, shall be contacted as soon as possible after illness is discovered. Arrangements shall be made for the exclusion of the child from the center.
4. Written permission from the parents to call the family physician or refer a child for medical care in case of an accident or emergency shall be on file in the center. This permission shall be used only when the parent or the designated responsible person cannot be reached.
5. When a child is suspected of having a communicable disease (such as but not limited to chickenpox, German measles, infectious hepatitis, measles, mumps, poliomyelitis, ringworm of the scalp, scarlet fever and whooping cough, diphtheria and meningitis), the local health officer shall also be notified.
6. When a positive diagnosis of a communicable disease is made, the parents of exposed children shall be notified immediately by the center and such children shall be watched for symptoms of the disease.
7. In cases of bacterio-diarrheal infections, infectious hepatitis, infectious mononucleosis, tuberculosis and streptococcal and staphylococcal infections, there shall be a statement that he is free of the infections stage from a physician for re-admission. A child may be re-admitted without a statement from a physician after a communicable disease if he has been absent a period of time designated by the division of health.
8. No medication shall be given to a child, except upon written order by the physician and written permission of the parent. Such medication to be given to the child shall be kept under lock and key and shall be in the original container and bear the child's name. A written report including time, date and the name of the person administering the medication shall be kept in the child's record.



9. Every center shall have a supply of bandages, tape, and bandaids. Superficial wounds shall be thoroughly cleansed with soap and water and protected.
10. A child's personal hygiene shall be provided for with an individual towel. An individual washcloth, comb, and toothbrush must be provided where these are used. Wet or soiled clothing shall be changed promptly from a supply of clean clothing which shall be available. A child shall be washed before diapering with a separate washcloth.
11. The person working with children shall wash before and after changing diapers and before handling food.
12. When a child naps or sleeps he shall be provided a washable, safe bed, crib or cot which is placed at least 2 feet from the next bed and identified with his name. Individual sheets and blankets, sufficient to maintain warmth, shall be provided either by the parent or the center.
13. When a family home is a day care center the beds of family members used by day care children shall be completely covered with a separate sheet. Each sheet shall be identified with the child's name.
14. No 2 children shall share the same bed.
15. There shall be a complete change of bed linen once a week, more often as needed, always after wetting or soiling, or after a change in occupancy.
16. Beds and bedding shall be stored in a clean sanitary manner.

(4) PUNISHMENT

- (a) There shall be no physical punishment or other punishment which is humiliating or harmful to the child.
  1. A child shall not be punished for lapses in toilet training.
  2. Meal and snack time shall not be used as a form of punishment.
  3. No punishment shall be delegated to an older child.
  4. No verbal abuse, or derogatory remarks about the child or his family shall be used.

(5) EQUIPMENT

- (a) Equipment shall be provided for both indoor and outdoor activities.
  1. It shall be scaled to the size, age, and developmental level of the children.
  2. It shall be of sound construction and in good operative condition.

3. It shall be placed so as to avoid danger of collision and to permit freedom of action.

(b) A variety of equipment from each of the following shall be selected:

1. To provide for large muscle development.
2. To provide for small muscle and manipulative skills.
3. To provide for intellectual stimulation.
4. To encourage social interaction.
5. To encourage creative expression.

(c) There shall be a sufficient quantity of equipment so that each child may have a variety of things to do each day.

(6) TRANSPORTATION

(a) When a center provides transportation, it shall assume responsibility for a child between the place where he is called for and the center, and from the time he leaves the center until he is delivered to his parents or to a responsible person designated by his parents.

1. No child shall be permitted to remain unattended in any vehicle.
2. In delivering a child to his home the driver shall wait until the child enters the home or is delivered into hands of the designated responsible adult.
3. No child shall be permitted to stand in the vehicle when being transported.
4. No more than three persons including the driver shall be permitted to occupy the front seat of the vehicle.
5. There shall be at least one adult supervisor in addition to the driver when there are more than 10 children in the vehicle.

(b) Any vehicle operated by a Center shall be licensed in accordance with the laws of the State of Wisconsin and the driver of the vehicle shall hold whatever type of operator's license that is required.

1. Vehicles operated for the transportation of children shall be in safe operating condition and clean and free of obstructions on the floors and seats of the vehicle.
2. Safety door locks shall be provided for all vehicles used for transportation.