

Chapter PW-CY 40

CHILDREN AND YOUTH

DAYCARE CENTERS FOR CHILDREN		PW-CY 40.52 Personnel administration (p. 148)	
PW-CY 40.25	Rules for the approval of start-up grants for the expansion of child care in Wisconsin (p. 121)	PW-CY 40.53 Building, grounds and equipment (p. 152)	
SUBSIDIZED ADOPTIONS		PW-CY 40.54 Child care and development (p. 155)	
PW-CY 40.30	Introduction (p. 136-2)	PW-CY 40.55 Social services (p. 162)	
PW-CY 40.31	Eligibility for adoption with subsidy (p. 136-3)	PW-CY 40.56 Records and reports (p. 164)	
PW-CY 40.32	Method of payment (p. 136-3)	LICENSING FOSTER HOMES	
PW-CY 40.33	Post adoption responsibilities of adoptive parents (p. 136-4)	PW-CY 40.60	Licensing foster homes (p. 164)
PW-CY 40.34	Post adoptive responsibilities of the department (p. 136-4)	PW-CY 40.61	Foster parents and their families (p. 165)
PW-CY 40.35	Non-discrimination (p. 136-5)	PW-CY 40.62	Foster homes (p. 166)
LICENSING CHILD PLACING AGENCIES		PW-CY 40.63	Care of children (p. 167)
PW-CY 40.40	Introduction (p. 136-5)	PW-CY 40.64	Supplemental payments for special needs and initial clothing allowances for children in foster homes (p. 169)
PW-CY 40.41	Organization and administration (p. 136-6)	PW-CY 40.65	Fair hearings (p. 171)
PW-CY 40.42	Personnel administration (p. 138)	LICENSING GROUP FOSTER HOMES	
PW-CY 40.43	Social services (p. 140)	PW-CY 40.90	Licensing group foster homes for children (p. 174)
PW-CY 40.44	Records and reports (p. 143)	PW-CY 40.91	Administration and management (p. 180-6)
LICENSING CHILD WELFARE AGENCIES		PW-CY 40.92	Personnel (p. 180-8)
PW-CY 40.50	Introduction (p. 145)	PW-CY 40.93	Child care (p. 180-11)
PW-CY 40.51	Organization and administration (p. 146)	PW-CY 40.94	Physical plant and environment (p. 180-13)
		PW-CY 40.95	Recording and reporting (p. 180-17)

DAY CARE CENTERS FOR CHILDREN

Note: Rules relating to day care centers can be found in ch. HSS 55, Wis. Adm. Code.

PW-CY 40.20 Revocation of licenses, permits or certificates. History: 1-2-56; r. Register, June, 1982, No. 318, eff. 7-1-82.

PW-CY 40.25 Rules for the approval of start-up grants for the expansion of child care in Wisconsin. (1) **GENERAL INFORMATION.** (a) *Statement of intent.* These rules provide for the regulation of the expenditure of the funds which have been appropriated for the expansion of day care in Wisconsin.

(b) *Effect of rules.* The following rules for approval of start-up grants have the full effect and force of law as provided in ch. 227 of the Wis. Stats.

(c) *To whom the rules apply.* The rules apply to all persons, groups or newly operating day care centers making application for start-up grants.

(d) *Exceptions to rules.* The department may make exceptions to any of the rules for approving start-up grants when it is assured that granting such exception is not detrimental to the health, safety and welfare of children.

(e) *Definitions.* The following words, phrases and initials have the designated meanings:

1. Department. Unless qualified, means the state of Wisconsin department of health and social services.

2. Division. Unless qualified, means the division of family services of the department.

3. Rule. Means a regulation, standard, statement of policy or general order (including the amendment or repeal of any of the fore-going) of general application and having the effect of law.

4. Newly operating center. Means a day care center which has been in operation for a period less than 6 months.

5. Start-up grants. Are money payments or a planned series of money payments to an approved applicant to be used to develop a needed child care service or assist a newly operating center having financial difficulties. The grants are not loans.

6. Child care. For the purposes of these rules means day care for children.

7. Satellite system. For the purposes of these rules is defined as family day care homes, in-home care providers or a combination of both which are centrally organized, coordinated, and administered as a unit in themselves or as an extension of another service/center or as part of the educational/training program of an accredited school of social work or early childhood education.

8. In-home care. Is the care of the child in his own home on a routine planned basis for a period less than 24 hours by a responsible person other than his parents.

9. Family day care. Is the care of the child in a family home other than his own by a responsible person other than the child's parents for a period of time less than 24 hours.

(2) APPLICATION FOR START-UP GRANTS. (a) Application shall be made on a form provided by the department.

(b) Application shall be open to:

1. Individuals or groups planning to establish a voluntary non-profit or a proprietary child care service.

2. Individuals or groups submitting a proposal of a plan for:

a. A new center.

b. Expansion of an existing center to include a new program.

- c. A small innovative program around special need.
- d. Satellite systems of family day care, in-home care or a combination of both. (See sub. (5) of these rules for information on satellite systems).
- 3. Newly operating centers which are experiencing financial difficulties.

(c) The individual, group or center making application shall:

- 1. Have a policy board whose proposal of a plan shall document involvement in the planning of parents who will use the service.
- 2. Document the need for the specific service to be provided in the area proposed in the plan.
- 3. Submit written assurance to the appropriate division regional staff that the service to be provided will meet the requirements for Licensing of Day Care Centers for Children (PW-CY 40.10-40.14) and/or the Federal Inter-Agency Day Care Requirements for Certification.

(d) Application from newly operating centers experiencing financial difficulties shall include with part I of the application form:

- 1. Documentation of expenditures and income for the total period of operation giving special details of financial problem areas.
- 2. Documentation of need for the service including the target group of parents and/or children they serve.
- 3. Endorsement from the appropriate division regional staff member that this particular center should receive a start-up grant to continue its operations.
- 4. Detailed operating budget for the review of any period of operation if requested by the division regional director.

Next page is numbered 136-1

LICENSING CHILD WELFARE INSTITUTIONS

PW-CY 40.50 Introduction. (1) (a) *Statement of intent.* The intent of these rules is to protect and promote the health, safety and welfare of children in care in child welfare institutions in Wisconsin.

(b) *Effect of rules.* The following rules for licensing have the full effect and force of law as provided in section 227.01 (3), Wis. Stats. These rules do not repeat the laws related to child care licensing. Persons using these rules should be aware of and familiar with the statutory sections containing laws pertinent to child welfare institutions.

(c) *To whom the rules apply.* These rules apply to all child welfare institutions making application for a license under section 48.60, Wis. Stats.

(d) *Exceptions to rules.* The department may make exceptions to any of the rules for licensing child welfare institutions when it is assured that granting such exceptions is not detrimental to the health, safety and welfare of children.

(e) *Definitions.* 1. Department. The State of Wisconsin Department of Health and Social Services.

2. Rule. 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.

3. Division. Unless qualified, the division of family services.

4. Division of health. The division of health of the Department of Health and Social Services.

5. Division of industrial safety & buildings. The division of industrial safety and buildings of the Department of Industry, Labor & Human Relations.

6. Child welfare agency. Any facility required to be licensed under section 48.60, Wis. Stats.

7. Child welfare institution. A child welfare agency which regularly provides care and maintenance for children within the confines of its building.⁽¹⁾

⁽¹⁾ An agency whose primary purpose is education is deemed to be a child welfare institution when its pupils, in the ordinary course of events, do not return annually to the homes of their parents or guardians for at least 2 months of summer vacation. Exceptions to these rules may be considered for such agencies when these exceptions, in the department's opinion, do not jeopardize the health, safety and welfare of children.

8. Board of directors. The policy making body which governs a child welfare institution and is responsible for compliance with these rules.

9. Legal custodian. The person or agency having the right to the care, custody and control of a child and the duty to provide food, clothing, shelter, ordinary medical care, education and discipline for a child. Legal custody is taken from a parent only by court action.

10. Guardian. The person or agency having the right to make major decisions affecting a child including the right to consent to marriage, to enlistment in the armed forces, to major surgery and to adoption or to making recommendations regarding adoption.

11. Child. Is legally defined as a person under 18 years of age. In addition these rules use the word to include those persons under

continuing juvenile court jurisdiction who have not yet attained age 21. (See section PW-CY 40.55 (4), Footnote).

History: Cr. Register, October, 1957, No. 22, eff. 11-1-57; r. and recr. Register, July, 1970, No. 175, eff. 2-1-71.

PW-CY 40.51 Organization and administration. (1) **INCORPORATION.** Every child welfare agency shall be incorporated. Any agency incorporated outside of Wisconsin shall secure authorization from the secretary of state to do business in Wisconsin.

(2) **BOARD OF DIRECTORS.** (a) Every agency shall be governed by a board of directors which is responsible for the operation of the agency according to its defined purposes.

(b) If the agency is incorporated in another state, the board of directors shall:

1. Meet in Wisconsin at least once during the period for which the license is issued, or

2. Have a subcommittee of at least 3 Wisconsin residents one of whom shall be a member of the board. This subcommittee shall be responsible to the board of directors to see that board policies are carried out and that there is adherence to licensing rules.

(c) When requested, the board, or its subcommittee if it is in the category covered by (2) (b) above, shall meet with the licensing representative.

(d) The board shall:

1. Define its responsibilities. These responsibilities shall include:

a. The establishment of policies to be followed by the institution and regular planned review of its policies and purposes to determine that the interests of children are being served.

b. Surveillance that the institution does not discriminate in its personnel practices, intake and services on the basis of race, color and national origin.

c. The exercise of trusteeship for property, investment and protection from liability.

d. Approval of the budget and responsibility for obtaining and disbursing of funds.

e. Employment of a qualified executive and delegation to that executive the responsibility for the administration of the institution and the employment of other staff members.

2. Meet at least semiannually and keep minutes of each meeting which shall be made a part of the permanent records of the institution.

3. Keep informed to insure that the institution fulfills its functions.

4. Consult with the department prior to the establishment of a new institution or the changing of a basic program of care of an existing institution.

5. Notify the department when there is a change in the executive of the institution and/or the board chairman.

6. Notify the department of any major changes pending or occurring in the corporate structure, organization or administration of the agency.

(3) **APPLICATION.** (a) All applications shall be on forms prescribed by the department, shall be signed by the chief officer of the board and the institution executive and shall be submitted to the department.

(b) If the board is applying for a license for the first time a

written notification indicating intent to operate shall be submitted at least 60 days prior to the date on which it proposes to begin operation.

(c) The formal application for the initial license shall be submitted before a first license is issued. The institution shall not begin operation as an institution until it receives such a license.

(d) The following material shall accompany the first application for a license:

1. A copy of the articles of incorporation and if existent, a copy of the constitution and by-laws.

2. Evidence of the availability of funds to carry the institution through the first year of operation.

3. A statement of purpose which includes a description of the geographic area to be served, the types of children to be accepted for care, the services to be provided and the program objectives.

4. A description of the job responsibilities for each type of position proposed for the institution.

5. A proposed organization chart insuring that there will be staff in number and qualifications for the scope of the agency services.

6. A list of the board members.

(e) Subsequent applications shall be submitted to the department:

1. At least 3 weeks prior to the expiration of the current licensing.

2. When an additional facility or new program which is subject to licensing is to be opened.

3. When the address of the facility is to be changed.

4. When ownership of the institution is changed.

(f) The following material shall accompany subsequent applications for a license:

1. Copies of the annual reports published since the last license was issued.

2. The budget for the current fiscal year and the financial audit of the past year.

3. A list of the current members of the board of directors and its committees.

4. The number, names, qualifications and classifications of current staff.

5. A copy of the current staff organization chart.

6. A description of any program review and evaluation and changes in program content and purpose which have occurred since the last license was issued.

7. If the expiring license is provisional, a statement showing whether the requirements on which a provisional license was based have been met, or if not, plans for meeting them.

8. A copy of any revisions of personnel practices that have been made since the last license was issued.

(g) A written amendment to the license shall be secured from the department by the board of directors prior to any changes in the conditions of the current license.

(h) When a license is issued, the board shall display the certificate of license in a prominent place in the institution.

(4) FINANCING. (a) The board, with the executive, shall be responsible for the safety and judicious use of the funds of the institution. Policies and practices shall be in accord with sound budgeting, disbursement and audit control procedures.

(b) Each institution shall:

1. Have sufficient funds assured to carry a new institution through its first year of operation and be able to furnish evidence to that effect.

2. Have a sound plan of financing to assure sufficient funds to enable it to carry out its defined purposes and to provide proper care for children, as required by the administrative rules relating to licensing child welfare agencies.

3. Provide for annual audit of all accounts by a certified public accountant who is not in the employ of the agency nor a member of the board.

4. On request, provide the department with financial records or financial statements.

(c) The financial operation of the institution shall be based on an annual budget approved by the board. This budget shall reflect anticipated expenditures and sources of income.

History: Cr. Register, October, 1957, No. 22, eff. 11-1-57; r. and recr. Register, July, 1970, No. 175, eff. 2-1-71.

PW-CY 40.52 Personnel administration. (1) PERSONNEL POLICIES.

(a) Each institution shall have a written statement of personnel practices adopted by the board. The board shall review personnel practices at least every 2 years.

1. The following items shall be included in personnel practices and shall be submitted to the department for approval with the original application:

a. Job responsibilities. There shall be written descriptions of job responsibilities for all positions of 6 months or longer duration in the institution.

b. Staff pattern. There shall be staff sufficient in number and qualifications for the scope of the institution's services.

2. Within one year from original licensure and every 2 years thereafter, the institution shall submit to the department for approval, written material concerning the process and content of orientation, staff development and in-service training programs for all institution employees. These programs shall include provision for the development of a working knowledge of these rules as they pertain to individual responsibilities.

(b) There shall be written policy statements available to all employees and made known to each employee at the time of employment including:

1. The method of wage adjustments.

2. Retirement program.

3. Health and other insurance programs.

4. Vacation, sick leave, holidays and leaves of absences.

5. Probationary status.

6. Termination procedures.

7. Agency chain of command.

8. Grievance procedures.

9. Employment outside the agency.

10. For the job classification for which application is being made:

a. Compensation.

b. Hours of work.

c. Description of job responsibilities.

d. Performance evaluation.

(c) A personnel record shall be maintained for each staff member and be available to the authorized licensing staff. The record shall include:

1. Employment application showing qualifications and experience.
2. Statement from previous employers and personal references.
3. Reports of job performance.
4. Medical reports.
5. Dates of employment, separation and reasons for separation.

(d) Resident staff shall have at least 2 hours free of all agency responsibility during each 24 hour day, and at least one consecutive 24 hour period of free time per week.

(2) PERSONNEL. (a) *General qualifications.* 1. All employees shall have the ability and emotional stability to carry out their assigned duties.

a. Character references from at least 2 people and references from previous employers within the last 5 years must be obtained for prospective employees.

b. References may be documented either by letter or verifications in the record of verbal contact giving dates, person making the contact and persons contacted and the contact content.

c. The institution shall review and investigate application information carefully to determine whether employment of the individual is in the best interests of children under its care.

2. Every staff member who has contact with children shall have a comprehensive physical examination, including chest X-ray and seriological test for syphilis within one year before he begins work. The examination shall be repeated annually within one year of the previous examination.

3. All persons shall be excluded from the institution when ill, including such conditions as serious upper respiratory infections and infectious lesions. Persons with contagious diseases such as, but not limited to mononucleosis, streptococcal and staphylococcal infections shall have a physician's release before returning to work.

4. No person with a health history of typhoid, paratyphoid, dysentery, or other diarrheal disease shall be employed in an agency until it is determined by appropriate tests that such person is not a carrier of these diseases.

(b) *Administrative staff.* 1. An administrator shall be employed who shall:

a. Possess a knowledge of child welfare services and a demonstrated actual or potential administrative skill and leadership.

b. Be a graduate of an accredited college or university with a minimum of 15 credits in the social sciences.

c. Have at least 2 years experience in an administrative or supervisory capacity.

2. The administrator's responsibilities to the board for administering the institution shall include:

a. Satisfactory management.

b. Keeping them informed of the program of the institution.

c. Preparing the annual budget for discussion and approval.

d. Responsibility for the operation of the program of child welfare in employment, supervision and discharge of staff.

3. If the executive also functions as casework or child care super-

visor he shall meet the additional requirements for those classifications.

4. There shall be a qualified staff person to whom authority is delegated in the absence of the executive. The executive or a person to whom he has delegated responsibility, shall be available at all times.

(c) *Child care staff.*⁽¹⁾ 1. Child care staff shall participate on an ongoing basis in either:

a. A department approved in-service training program conducted by the institution, or

b. College or university credit or non-credit courses related to child care.

2. The ratio of child care staff to children in care shall be dependent on the needs of the children, but the ratio of such staff to children shall not be less than the following schedule:

<i>Age of child</i>	<i>Minimum ratio of staff to children during waking hours</i>
Infant to one year	1 to 3 children
One year to 2½ years	1 to 4 children
2½ to 3 years	1 to 6 children
3 to 4 years	1 to 10 children
4 years and over	1 to 12 children

⁽¹⁾ Child care staff are defined as those persons who are primarily responsible for the day to day living experience of children in care.

3. There shall be at least 2 child care staff members or persons properly substituting for them on duty in the institution at any time when there are 9 or more children present during waking hours.

4. When there are 8 or less children in care a second person who meets the qualifications for child care staff shall be available within 5 minutes.

5. At night there shall be a staff member within hearing or call of every 25 children or a fraction thereof, when they are asleep. In addition there shall be another adult who can be summoned in case of emergency.

a. If children under 6 are in care, the night time ratio of staff to children shall be no less than 1 to 15.

b. When infants under one year of age are in care, the night time ratio of staff to children shall be no less than 1 to 5.

c. When children are under 6 years of age, the staff members on duty shall be awake and remain in the immediate vicinity of the children.

6. The primary responsibility of child care staff shall be care of children. The institution shall not assign other responsibilities which interfere with this responsibility.

7. Responsibility for the supervision of child care staff shall be delegated to a person who is qualified for this position. This shall be a full time position if eight or more child care staff are employed. Qualifications for this position shall include either:

a. The status of advanced social worker (See section (2) (d) 4 below), or

b. A master's degree in a social science, or

c. Three years of experience in institutional child care plus 250 hours of documented in-service training.

(d) *Social service staff.* 1. The ratio of social service staff to children shall be dependent on the needs of the children, but, there shall be at least one social worker for every 25 children in the institution.

2. Institutions which provide care exclusively for mentally retarded children shall employ at least one social worker for every 50 children.

3. Director of social service or social work supervisor. a. Each institution shall employ as the director of social service or social work supervisor, one social worker with a master's degree from a recognized school of social work. In addition this person shall have knowledge of and skill in supervision and at least 2 years of supervised experience in a recognized child or family welfare agency.

b. The supervisory responsibility shall be handled by a full time agency employee if the institution employs 4 or more social workers. Such an employee could be carrying other functions on a limited basis if he is supervising between 4 and 8 social workers. Such a staff position shall not exceed supervision of more than 8 staff.

c. In a large program in which a director of social service is responsible for the supervision of one or more social worker supervisors, the director of social service shall have at least 2 years of supervisory experience in a recognized family or child welfare agency.

4. Advanced social worker. In agencies employing more than one social worker, at least 50% of the social work staff shall be advanced social workers. An advanced social worker shall have:

a. A master's degree from an accredited school of social work, or

b. Completed one year of graduate work in an accredited school of social work and have at least 2 years of supervised experience in child or family welfare, or

c. Graduated from an accredited college or university, completed at least 3 years of supervised experience in the field of child or family welfare, acquired 12 graduate credits in social work, and completed 250 hours of documented in-service training.

5. Social worker. Social workers shall have at least a bachelor's degree with a minimum of 15 credits in the social sciences and within 2 years of employment shall participate in at least 180 hours of documented in-service training.

6. Consultant services. The agency shall provide consultant services as required to meet the needs of the children. Consultants shall meet the standards of their professional groups. (See also, section PW-CY 40.55 (2) (d) 2.)

(e) *Education staff.* 1. The administrator shall designate a qualified staff person to be responsible for determining that the education needs of each child in residence are met.

2. If the institution operates a school program it shall maintain a classroom ratio of at least one teacher for each 15 students.

3. Teachers employed in an institution shall:

a. Hold a bachelor's degree from an accredited college or

b. Be a graduate of an approved 2 year professional teacher education course and have 2 years experience in a full time paid teaching position.

4. If teachers' aides are employed they shall meet the requirements for child care staff.

5. Education staff shall participate on an agency basis in either:

a. The institution in-service training program approved by the department, or

b. College or university credit or non-credit courses related to education.

(f) *Recreation and activity staff.* 1. The institution shall designate a staff person to be responsible for the development and coordination of the institution's recreation and activity programs.

2. The agency shall select recreation staff on the basis of experience in working with groups of children whose recreational needs and interests vary.

3. The agency may use child care staff as recreation or activity staff only if they possess skills ordinarily expected of recreation staff.

4. Recreation and activity staff shall participate on an ongoing basis in a department approved in-service training program.

(g) *Clerical staff.* The institution shall have clerical services to maintain correspondence, records, bookkeeping and files.

(h) *Other staff.* 1. The institution shall employ staff such as cooks, kitchen help, housekeepers, gardeners, janitors, laundresses, and seamstresses to carry on the daily housekeeping functions.

2. There shall be one person on the premises awake and on duty during the night in any institution having a population of over 25 children on the premises. (See also section PW-CY 40.52(2)(c) 5.)

(i) *Volunteers.* 1. If volunteers are used, the agency shall assign an appropriate staff member to evaluate and supervise them and to develop a plan for their orientation, training and use.

2. All volunteers having regular contact with children for more than 2 hours per week shall have annual chest X-rays or negative tuberculin tests. Volunteers who are in contact with children more than 20 hours in a week shall meet the health requirements for paid staff.

History: Cr. Register, October, 1957, No. 22, eff. 11-1-57; r. and recr. Register, July, 1970, No. 175, eff. 2-1-71.

PW-CY 40.53 Building, grounds and equipment. (1) **GENERAL REQUIREMENTS.** (a) All buildings of the child welfare institution shall comply with the state building code.

(b) Plans for new buildings, or alterations which affect the structural strength, safety, or sanitary conditions of existing buildings, shall be submitted to the division of industrial safety and buildings, and to the department for approval. The agency shall have in writing the approval of both the department and the division of industrial safety and buildings before contracts are let.

(c) The institution shall comply with requirements established through the building inspections which the division of industrial safety and buildings will make at intervals not to exceed 2 years.

(d) The premises of an institution shall be used only for purposes which are compatible with the program of child care.

(e) Living and indoor recreation space to enhance physical and emotional health shall be provided. Buildings constructed or other facilities converted to child care after the effective date of these rules shall contain living and recreational space at least equal to the minimum amount of sleeping space required for licensing. This space shall be exclusive of hallways less than 7 feet in width, bathrooms, lockers, offices, storage rooms, isolation rooms, staff rooms, furnace rooms and that part of the kitchen occupied by stationary equipment.

(f) Safety glass which is resistant to shattering or screening approved by the department shall be installed in high risk areas where children are active such as recreation rooms and stair wells.

(g) There shall be telephone service in all buildings housing children.

(h) Any institution operating or using camping facilities shall comply with requirements for recreational camps established by the division of health. (See chapter H75, Recreation Camps, State Division of Health). Agencies shall comply with requirements established through annual inspections of the division of health.

(i) Institutions using or operating camp facilities between October and April shall comply with requirements of the building code and the heating, ventilation and air conditioning code issued by the division of industrial safety and buildings. Compliance with these requirements shall be determined through inspections of the division of industrial safety and buildings made at intervals not to exceed 2 years.

(2) LOCATION. The location of the institution shall be beneficial to health, safety and well-being of the children.

(3) GENERAL SANITATION. The institution shall comply with departmental sanitation requirements and with the recommendations of the division of health when used as a consultant by the licensing agent.

(4) WATER. (a) The institution shall at all times have a safe adequate supply of running hot and cold water.

(b) Drinking water shall be supplied from an approved public water supply, if available.

(c) When water is obtained from a private well, the water supply shall meet the requirements of the division of health, and its safety shall be determined by monthly testing of samples submitted to the state laboratory of hygiene, Madison Wisconsin, or to a laboratory certified by the division of health.

(d) The use of common drinking utensils shall be prohibited. Sanitary drinking fountains shall be installed or individual drinking cups provided.

(5) SEWAGE. Sewage shall be disposed of through a municipal sewage system when available. When an independent or private system is necessary, the installation shall comply with the requirements of the division of health.

(6) BATH AND TOILET FACILITIES. (a) The institution shall:

1. Maintain bathrooms, toilets and wash basins in a sanitary condition. At least one-half of the facilities shall be on the same floor as the sleeping rooms.

2. Provide at least one wash basin in every toilet room.

3. Provide separate toilets and bathrooms for boys and girls 6 years of age and over.

4. Provide privacy and bath and toilet equipment of the appropriate height for the children using it.

5. Provide at least one tub and one shower, either separate or in combination with each other, in each living unit.

(b) An institution with 8 or less occupants shall meet the requirements with one complete bathroom, provided that all children under

care are of the same sex. The term "complete bathroom" is intended to include a toilet stool, wash basin, and a bathtub or shower.

(c) An agency with 9 or more occupants shall:

1. Provide separate bath and toilet facilities for staff.
2. Provide one toilet for every 8 children, one tub or shower for every 8 children, and one wash basin for every 4 children.
3. Provide at least one toilet and wash basin near living rooms and recreation areas.

(d) All hot water pipes leading to bathing and washing facilities used for child care purposes shall be fitted with an approved temperature control device so that the water delivered does not exceed 105 degrees F. The temperature control device shall be tamper proof and controlled only by authorized persons.

(7) SLEEPING FACILITIES. (a) The institution with 9 or more children shall:

1. Provide an area of at least 80 square feet within sleeping areas for one child.
2. Provide at least 60 square feet of floor space per child in sleeping areas that accommodate more than one child.

(b) The institution with 8 or less children shall:

1. Meet the requirements for space within sleeping areas with at least 35 square feet of floor space for each child occupying a bedroom if it also provides an average of 200 square feet or more of living space for each occupant of the institution including the children in care, staff and any members of the families of staff housed in the institution. The term "living space" is intended to include all areas of the house except an unfinished basement, attic or similar areas not usually occupied by the family in their daily living.

(c) Each institution shall:

1. Provide each child with his own bed which shall be at least 30 inches wide and adequate in length for his height.
2. Provide separate sleeping rooms for boys and girls 6 years and over.
3. House no more than 4 children in a sleeping area. In a remodeled setting, provide for permanent full or partial partitions at least 6 feet in height between at least every 4 beds.
4. Have beds at least 3 feet apart at the head, foot and sides. Have double decker beds, if used, at least 3 feet apart at the head and foot and at least 5 feet apart at the sides.
5. Provide each bed with level, substantial springs, a comfortable mattress, a pillow, 2 sheets and sufficient covering for comfort.
6. Provide a complete change of clean bed linen at least once a week. In addition, provide clean bed linen whenever soiled, and, provide rubber sheeting for all children under 6 years of age and for all enuretic children.

(d) Each child shall have a closet, locker or bureau for clothing and personal belongings which shall be reserved for him alone.

(8) HEAT, LIGHT, VENTILATION AND SCREENING. (a) The institution shall:

1. Meet heat, light and ventilation requirements established for institution facilities by the division of industrial safety and buildings.
2. Provide a heating system that will maintain the temperature

in living and sleeping quarters between 70-74 degrees F. during the day and 67-70 degrees F. during the night.

3. Provide appropriate coverings for windows through which sunlight enters.

4. Provide screens for open doorways and windows.

(9) SAFETY AND PROTECTION FROM FIRE. (a) The institution shall:

1. Comply with the state building code relating to fire protection and safety.

2. Develop a detailed plan of evacuation of buildings for use in case of fire and train staff in the use of this plan.

3. Post printed procedures for evacuation in conspicuous places in buildings used by children and staff.

4. Have fire drills at least once every 2 months and maintain an ongoing written record of fire drills for the past year.

5. Train staff and children in the correct reporting of fires and in fire prevention. Train staff in how to extinguish small fires.

6. Provide one fire extinguisher per 2000 square feet of floor area, and at least one extinguisher on each floor, including basements.

7. Keep fire extinguishers charged and filled and have them inspected annually.

8. Have all exits, doors, halls, and stairs well lighted and kept clear and ready for instant use. Provide exit signs and lights when required by the building code.

9. Provide more than one exit leading to the outside of the building from each floor. Exit doors shall open outward and be equipped with panic hardware.

10. Report to the department within 48 hours any fire on the premises which requires the services of a fire department.

11. Provide a fire alarm system in compliance with building code requirements in all buildings used for sleeping by 20 or more persons.

12. In buildings for more than 30 children, provide an emergency generator or other approved separate electrical supply system as required by the Wisconsin state electrical code.

History: Cr. Register, October, 1957, No. 22, eff. 11-1-57; r. and recr. Register, July, 1970, No. 175, eff. 2-1-71.

PW-CY 40.54 Child care and development. (1) **GENERAL REQUIREMENTS.** (a) *Program requirements.* The institution shall:

1. Develop programs which encourage the development of independence through avoiding regimentation of scheduling.

2. Integrate the agency program with community activities so that children have opportunities to participate in normal community living patterns.

3. Provide for the development and maintenance of constructive relationships with parents, brothers and sisters, relatives, staff and friends.

4. Incorporate in its program a balance of spiritual and moral training, work, recreation and education.

5. Make maximum use of small groups as an aid in individualizing the child and helping him to attain a sense of personal identity.

(b) Buildings shall be so structured or arranged that groups of children can be housed under supervision of their own child care staff, without gross intrusion from other similar groups.

(c) In institutions licensed to house 9 or more children in a build-

ing, children of staff shall not be housed in the living quarters of children under care.

(2) **PERSONAL HYGIENE.** The institution shall:

(a) Provide every child the opportunity to develop socially acceptable habits.

(b) Establish a climate in which each child learns the values of personal hygiene.

(c) Provide each child with his own toilet articles, including a toothbrush and comb, and with clean towels and washcloths not less than twice a week. Prohibit the use of a common towel.

(d) Provide space for individual storage of toilet articles. Allot space to permit quick drying of towels and washcloths and separation from those of other children.

(e) Provide mirrors in bathrooms and living areas at appropriate levels and numbers to be easily accessible to all children.

(3) **CLOTHING.** Each institution shall:

(a) Develop a list of clothing required for children and maintain the child's wardrobe at or above this level. This list shall be subject to the department's approval.

(b) Furnish each child with clothing which is individually selected and fitted, appropriate to the season and comparable to that of other children in the community. Each child's clothing shall be identified as his own.

(c) Have shoes fitted to the individual child and kept in good repair. Shoes already worn by one child shall not be given to another child.

(d) Arrange for children to participate in the selection and purchase of their clothing to the maximum extent feasible.

(e) Use donated clothing only if it is suitable and in good condition.

(4) **WORK EXPERIENCE.** Each institution shall:

(a) Provide work experience for children that is appropriate to the age, health and abilities of the individual child. Work shall be assigned and supervision provided with the view to training and contributing to his growth. Work shall not interfere with the child's time for school, study periods, play, sleep, normal community contacts or visits with his family.

(b) Not use the children as substitutes for staff.

(c) Comply with the rules of the department of industry, labor and human relations on child labor, especially the use of dangerous machinery and hazardous employment. Operation of such machinery shall be in the immediate presence of an adult.

(d) Differentiate between chores which children are expected to perform as their share in the business of living together, specific work assignments available to children as a means of earning money, and jobs performed in or out of the institution to gain vocational training.

(e) Give children some choice in their chores and change routine duties often to provide a variety of experience.

(f) Provide every child of school age with an allowance either by gift or by earnings which he is permitted to spend at his own discretion.

(5) EXPLOITATION. (a) No child shall be used for soliciting funds for the agency in any way which would be harmful or cause embarrassment to the child or his family.

(b) The written consent of the parent or legal guardian shall be obtained prior to the agency using a child's picture or name in any form of written, visual or verbal communication system.

(6) DISCIPLINE AND CONTROL. (a) Each institution shall:

1. Maintain current discipline policies in writing. They shall be aimed at changing attitudes and conduct and at helping the child understand and conform to established standards of behavior through inner control rather than by external pressure.

2. Prohibit physical and verbal abuse, corporal punishment, ill treatment and harsh and humiliating punishment. (See sections 49.981 and 940.27, Wis. Stats.)

3. Determine discipline on an individual basis and prohibit punishment of a group for an individual's offense.

4. Not create a negative attitude for work by using it as an inappropriate disciplinary measure.

5. Prohibit the withholding of meals, mail, or family visits as methods of discipline.

6. Not permit a child to punish another child or group of children.

7. Not use confinement except as a therapeutic measure when the child is in danger of harming himself or the group, or is undergoing an emotional crisis.

If confinement is used:

a. Rooms used for confinement shall be constructed and equipped so that therapeutic use is maximized and risk of injury to children is minimized:

1) Windows shall be covered with psychiatric screening.

2) Steam or hot water radiators shall be covered.

3) Because confinement rooms are considered to be places of detention, the buildings in which they are located must be of fire resistant construction.

4) Doors shall be equipped with a window through which the occupant of the room can be observed.

b. Written policies for the use of confinement shall be prepared, and included in in-service training.

c. The agency shall maintain a log or record book on the use of confinement. This record shall include information on the circumstances leading to confinement, the period of time any child was confined and specific reasons for periods of confinement extending beyond one hour.

d. Periods of time during which children are confined shall be kept at a minimum. While a child is confined, periodic checks at intervals not to exceed 15 minutes shall be made on the emotional state of the child and a decision made on whether or not he can be released from confinement.

e. The agency administrator shall designate appropriate members of the staff who may authorize confinement of a child. The administrator or his designate must approve if confinement extends beyond one hour.

(7) HEALTH CARE. (a) *General health program.* 1. Each institution shall:

a. Provide for the necessary remedial and corrective measures for every child as soon as possible after initial and periodic physical examinations.

b. Have a written planned program of health supervision and medical and dental care.

c. Prior to admission obtain from the parent or guardian of every child accepted for care a written authorization for emergency surgical and medical care, for necessary vaccinations and immunizations, for routine medical examinations and care.

1) The authorization for emergency surgery is for use only in the event the parent or guardian cannot be reached in an emergency. Whenever non-emergency surgery is necessary, written permission for the specific surgery shall be obtained from the parent or guardian.

d. Report any serious illness or hospitalization of a child to his parent or guardian and legal custodian.

(b) *Health procedures on admission.* 1. A complete physical examination shall be given to each child within 90 days prior to or within 48 hours after admission. If a child has not been examined prior to admission he shall be isolated from other children until the examination is completed. The examination shall cover items included on a department prescribed form.

2. An observation shall be made of each child on arrival for admission by a person capable of recognizing common signs of communicable diseases or other evidence of ill health. The child's temperature shall be taken and evaluated. If the child shows overt signs of communicable disease or other evidence of ill health, the institution shall make arrangements for immediate examination by a licensed physician.

(c) *Immunization.* 1. Any child who has not received primary immunization prior to admission against any of the following diseases shall be so immunized within 30 days after admission.

- a. Poliomyelitis
- b. Diphtheria
- c. Tetanus
- d. Whooping cough (to age 6)
- e. Measles (rubeola)
- f. German measles (rubella)
- g. Mumps

2. Necessary booster shots shall be administered to children on admission and while in care at time intervals recommended by the American Academy of Pediatrics or the division of health.

(d) *Health examinations.* 1. The institution shall provide for each child an annual health examination covering the areas included on a department prescribed form.

2. An institution with children under 6 years of age in care shall provide for them health examinations according to a schedule established by a responsible physician but not less than annually.

3. Each child shall be given a complete health examination within a week prior to discharge unless a health examination has been given within the preceding 6 months.

(e) *Medical care.* Each institution shall:

1. Arrange with a physician licensed in the state of Wisconsin or with a clinic employing such physicians to serve as the agency

medical director or consultant and to be responsible for a program of medical care within the institution, including visits to the institution and office visits.

2. Establish written policies and procedures for hospitalization, first aid procedures and dispensing of medication.

3. Provide for prompt treatment of acute illness.

4. At the time of discharge, make available to the parents or to the agency responsible for planning for the future medical care of the child, a copy or summary of the child's health record.

(f) *Nursing care.* The institution shall:

1. Provide hospitalization for the ill child when need is determined by the attending physician.

2. Provide nursing care within the institution when such is prescribed by the attending physician.

3. Provide members of the child care staff with sufficient training to enable them to recognize the common symptoms of illnesses of children, to note any marked physical defects, and to administer simple remedial measures.

4. Give treatment and medication only upon the order of a physician, except for first aid treatment in case of emergency.

5. Keep all medication in locked cabinets.

(g) *Dental care.* Each institution shall:

1. Provide for adequate dental examinations and re-examinations and treatment, including necessary prophylaxis, repair and extraction.

2. Provide each child with a thorough dental examination either:

a. Within one month of admission if there has been no examination within the preceding 6 months, or

b. Within 6 months after his last examination prior to admission.

3. Arrange for re-examinations at intervals not exceeding 6 months after the last examination or completion of treatment.

4. Assure that X-rays recommended by the dentist working with the child are obtained.

5. Attempt to secure orthodontic and more extensive restorative dentistry when necessary to the health and well-being of the child.

6. Make available, at the time of discharge, to the parents or to the agency responsible for planning for the future dental care of the child, a copy or summary of the child's dental record.

(h) *First aid.* 1. At least one member of the child care staff who is qualified to administer first aid shall be available within the institution at all times.

2. The first aid training of staff shall be equivalent to that offered by American Red Cross.

3. Each institution shall have available for instant use in each living unit a first aid kit with contents to be determined by the medical director.

(i) *Health records.* 1. The institution shall maintain on its premises a separate health record or a health section in the case record for each child which shall include:

a. The signed consent of parent or guardian. (See section PW-CY 40.54 (7) (a) 1. c.).

b. Reports of all required and additional examinations and the recommendations resulting from such examinations.

c. Previous and continuing health history of the child.

d. Record of illness, treatment and medication, and hospitalization.

e. Information concerning the following medical procedures, including dates of occurrences, results, and person administering;

- 1) Immunizations and laboratory tests.
- 2) Corrective treatments.
- 3) Dental examinations and treatment.

(j) *Reports.* The institution shall report any injury to a child which required hospitalization or the death of any child to the division and to the parent or guardian and the legal custodian within 48 hours.

(k) *Rest.* The institution shall provide opportunity for 8 to 10 hours of uninterrupted sleep for each child according to his individual needs.

(8) **FOOD AND NUTRITION.** (a) *Nutritional requirements.* Each institution shall:

1. Provide the children under care with wholesome appetizing food adequate to meet their daily nutritional requirements.
2. Recognize variations in appetite and encourage, but not force children to eat.
3. Provide supplementary food or modify diets as ordered by the physician for those children who have special needs.
4. Provide a dining area of at least 15 square feet per child.
5. Keep menus on file for one year and submit them on request of the department for review and evaluation by qualified nutritionists or dietitians. Menus shall specify the actual foods served. Any between meal snacks provided shall be included in the daily menu plan.

(b) *Food supply.* Each institution shall observe and apply the rules of the division of health as they apply to food supply for restaurants.

(c) *Meal service.* 1. Each institution shall:

- a. Serve meals at recognized meal times and at least 3 times a day except when children obtain their noon meal at school.
- b. Give consideration in planning meals to the religious practices and, whenever possible, the cultural pattern of the children.
- c. Serve staff members who eat with the children the same food as that served to the children.
- d. Help children develop good eating habits.

(d) *Personnel.* All employees who handle food or work in the food service area shall observe and follow the rules of the division of health for restaurants as they apply to personnel employed in food service areas.

(e) *Sanitation.* Each institution shall observe and apply the rules of the division of health for restaurants in relation to proper sanitation throughout the kitchen, food preparation, serving and dining areas.

(9) **RELIGIOUS TRAINING.** Each institution shall:

- (a) Have written policies on religious training.
- (b) Obtain parental consent for church attendance and religious instruction when the agency practice varies from that of the child or his family.
- (c) Whenever possible or appropriate, arrange for children to participate in religious exercises in the community.

(10) EDUCATION⁴¹. (a) The institution shall evaluate and consider each child's education status in determining whether or not the agency is appropriate for caring for him.

(b) Each institution shall:

1. Be responsible for providing opportunity for academic and vocational training as required in section 118.15, Wis. Stats. and in accordance with abilities and needs of the children. Wisconsin statutes make compulsory school attendance applicable to both public and private schools.

2. Provide opportunity for specialized training of children who are unable to benefit from a community school program because of physical, mental, or emotional reasons.

3. When the agency's educational program is conducted on campus, design such program and facilities to meet the specific needs of the children and provide competent instruction.

4. Evaluate the educational progress of the individual child at least once a semester, to be part of his overall progress evaluation.

5. Arrange for children to attend school in the community whenever possible or appropriate to enable them to have normal contacts with other children and with the general life of the community. Children shall be given the opportunity to develop friendships with schoolmates living in the community and to visit with them on and off the premises.

6. When approved use available community facilities for vocational counseling and training.

7. Provide suitable reading material and facilities for undisturbed reading and study for all children wishing to read or having homework assignments.

8. Provide sex education by understanding persons who are knowledgeable and skilled in presenting the subject.

⁴¹ See also section PW-CY 40.52 (2) (e).

(11) RECREATION AND ACTIVITY PROGRAMS AND LEISURE TIME⁴². Each institution shall:

(a) Plan its recreation and activity programs as an integral part of its total program in order to help children learn to use leisure time constructively and to develop new personal skills.

(b) Define recreation and activity objectives correlating them with overall program goals, indicate how these objectives are to be achieved and assign specific responsibility for implementing the recreation and activity programs.

(c) Provide for a varied recreation program under competent leadership. To bring children closer to the community, community recreational facilities shall be used when available and suitable.

(d) Consider participation for children in community youth serving groups, coeducational and camping activities.

(e) Provide indoor and outdoor recreation facilities.

(f) Provide a planned physical education program for those children who do not attend a community school.

(g) Provide that every child shall have some time to be alone if he wishes, places to go where he will not be disturbed, and an opportunity to exercise free choice of activities.

⁴² See also section PW-CY 40.52 (2) (f).

History: Cr. Register, October, 1957, No. 22, eff. 11-1-57; r. and recr. Register, July, 1970, No. 175, eff. 2-1-71; am. (7) (c), l., Register, December, 1972, No. 204, eff. 1-1-73.

PW-CY 40.55 Social services. (1) INTAKE AND ADMISSION. (a)
Each institution shall:

1. Develop intake policies in writing which clearly state types of services and specific programs offered by the agency, and procedures and information essential for application for admission.
2. Limit admission to children for whom the agency is qualified through staff, equipment, capacity and program to give adequate care.
3. Have on record, copies of the original consents, orders, agreements and authorizations retained by the referring agency, when another agency has legal custody, or guardianship, or is primarily responsible for planning for a child.
4. In other than emergency situations arrange for one or more pre-placement visits by the child, and when indicated and possible, by the parents if they retain guardianship. This requirement may be waived if the child lives more than 200 miles from the institution.
5. Obtain or develop a complete social study of the child before admission. In emergency placements, children shall be retained no longer than 60 days unless the study has been completed.

(b) The agency shall process each referral as quickly as possible. The referral agency or agent shall be informed of the decision on admission no more than one month after all required referral information has been obtained.

(c) When an institution accepts a child from another agency on a purchase of care basis, a written agreement shall be prepared outlining the respective responsibilities of each party as they concern the child and his parents.

(d) An institution providing temporary shelter care shall plan to keep the children in residence no longer than 60 days. No child shall remain in residence for more than 90 days. When a child's stay is expected to exceed 60 days, the agency shall report this in writing to the department, detailing plans for insuring replacement prior to the 90 day maximum.

1. This requirement shall also pertain to all children age 5 and under unless it has been determined by competent authority that the child's mental or emotional status requires residential care. Recommendation regarding acceptance of children under this condition shall be submitted to the department for approval.

(2) **SERVICES TO THE CHILD IN CARE. (a)** Each child in care shall receive regular social services provided by qualified social workers on the staff of the institution or by arrangement with another social service agency or agencies. When social service is provided by another agency, the institution shall be responsible for the adequacy of such service. (See also section PW-CY 40.52 (2) (d)).

(b) The social service program shall be a continuing service to children. It shall begin prior to the admission of the child, continue through his residence, and after discharge when appropriate.

(c) The social service program shall be directed toward helping the child adjust to life in the institution, making the experience a period of continuing physical, mental and emotional growth, and assisting the child to understand and accept his family relationships.

(d) The institution shall:

1. Evaluate the progress of the child at least every 6 months. The evaluations shall be made by social service staff together with

other staff members having significant contact with the child. The evaluations in summarized form shall be included in the child's record and shall be shared with the legal custodian

2. Make provision for psychological testing, psychiatric examination and treatment, and vocational counseling according to the child's needs.

(3) RESPONSIBILITY TO THE LEGAL CUSTODIAN. (a) The institution shall involve the legal custodian in planning for contacts with parents.

(b) The institution shall encourage contacts between parents and child except when these would be detrimental to the child's welfare or when permanent separation is planned.

(c) When visits are held at the institution, reasonable privacy shall be made available.

(4) DISCHARGE FROM CARE.⁽¹⁾ (a) The institution shall give advance notice to the legal custodian before discharging a child from care.

⁽¹⁾Minors in need of continuing care and who are under the jurisdiction of a juvenile court may remain in the institution setting until age 21.

(b) Discharge shall be part of a planned program worked out individually with the child, the parents and/or the legal custodian, and through staff participation.

(c) The institution shall provide pertinent health information to the parents or the agency receiving the child. (See section PW-CY 40.54 (7) (e) 4 and (g) 6).

(5) CASE RECORDS. (a) Each institution shall maintain individual case records for children accepted for care. Case records shall be confidential and shall be protected from unauthorized examination. The maintenance of the case records shall be the responsibility of a properly designated staff person.

(b) Case records shall contain the following:

1. Pertinent information such as: child's full name, birthplace and birthdate; religion of parents and child; parents' full names including the mother's maiden name; date and place of parents' marriage; if parents are deceased, date, place and cause of death; if parents are divorced or separated, date and place of same; names, addresses and birthdates of other children in the family; names and addresses of near relatives; source of referral for care; date and reason for placement; financial terms.

2. Report of the original social study and investigation. This report shall include information concerning the religious, educational, economic and cultural background of the family. It shall also contain information about the child such as developmental and health history, personality, school placement and adjustment, previous placements, attitude toward separations, and family relationships.

3. Documents pertinent to current legal custody and guardianship status.

4. Written agreements with parents, guardians or legal custodians (other than medical care authorizations which are to be kept in the health records).

5. School reports, including grades, progress and adjustment.

6. Case recording or summarized reports of the child's progress and development while under care, of the work done with the family,

of plans for discharge and after care and supervision. When case-work service is being provided by another agency, the institution shall see that it is provided with periodical summary reports of the casework service given and plans for continuing service, staffings and case conferences.

7. Reports of child care staff concerning the child's adjustment.

History: Cr. Register, October, 1957, No. 22, eff. 11-1-57; r. and recr. Register, July, 1970, No. 175, eff. 2-1-71

PW-CY 40.56 Records and reports. (1) **GENERAL REQUIREMENTS.** Each institution shall maintain records and submit reports prescribed by the department. Authorized representatives of the department shall have access to all reports pertinent to licensing.

(2) **RECORDS.** (a) Each institution shall maintain:

1. A register of all children currently receiving care. Included in the register shall be information concerning the name, sex, birth-date and legal custodian.

2. Individual case records for all children accepted for care. These records shall be maintained for at least 5 years after a child is discharged from care. (See section PW-CY 40.55 (5) (b)).

3. Health records of children. (See section PW-CY 40.54 (7) (i)).

4. Personnel records. (See section PW-CY 40.52 (1) (c)).

5. Financial reports and audits. (See section PW 40.51 (4) (b) 3.)

6. Copies of menus of all meals served. (See section PW-CY 40.54 (8) (a) 5.)

7. Records of fire drills held. (See section PW-CY 40.53 (9) (a) 4.)

8. Log on the use of isolation rooms. (See section PW-CY 40.54 (6) (a) 7.c. Child care and development).

(b) All records shall be protected against fire damage, theft, and unauthorized inspection.

(3) **REPORTS.** Each institution shall submit to the department:

(a) Reports as required under section 48.67 (3), Wis. Stats.

(b) A special report within 48 hours after the occurrence of an unusual incident such as a major fire or the death or serious injury of any child.^w (See sections PW-CY 40.53, (9) (a) 10. and PW-CY 40.54 (7) (j)).

^wMajor fire is defined as one requiring the services of a fire department. Serious injury is defined as one requiring hospitalization.

History: Cr. Register, July, 1970, No. 175, eff. 2-1-71

PW-CY 40.60 Licensing foster homes. (1) **INTRODUCTION.** (a) *Statement of intent.* The intent of these rules is to protect and promote the health, safety, and welfare of children in care in foster homes in Wisconsin.

(b) *Effect of rules.* The following rules for licensing foster homes have the full effect and force of law as provided in section 227.01 (3), Wis. Stats. These rules do not repeat the laws related to child care and licensing. Persons using these rules should be aware of and familiar with the statutory section containing laws pertinent to foster care.

(c) *Exceptions to rules.* The department may make, or may delegate to an agency the authority to make, exceptions to any of the rules for licensing foster homes when the department is assured that