

Chapter HSS 52

CHILD CARE INSTITUTIONS

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HSS 52.01 Introduction. (1) **STATEMENT OF INTENT.** The intent of these rules is to protect and promote the health, safety and welfare of children in the care of child care institutions in Wisconsin.

(2) **APPLICABILITY.** This chapter applies to all child care institutions.

(3) **EXCEPTIONS.** The department may make exceptions to any rule for licensing child care institutions when it is assured that granting such exceptions is not detrimental to the health, safety or welfare of children.

(4) **DEFINITIONS.** As used in this chapter:

(a) "Board of directors" means the policy-making body which governs a child care institution and is responsible for compliance with this chapter.

(b) "Child" means a person under 18 years of age, except that a person under continuing juvenile court jurisdiction who is over 17 years of age but has not yet attained the age of 21 is also considered a "child" for purposes of this chapter.

(c) "Child care institution" means a child welfare agency which regularly provides care and maintenance for children within the confines of its building.

Note. An agency having education as its primary purpose is deemed to be a child care 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 the exceptions, in the department's opinion, do not jeopardize the health, safety and welfare of children.

(d) "Child welfare agency" means any person required to be licensed under s. 48.60, Stats.

(e) "Department" means the Wisconsin department of health and social services.

(f) "Division" means the department's division of community services.

(g) "Division of health" means the department's division of health.

(h) "Guardian" means the person or agency appointed by a court to make major decisions affecting a child, which may include consent to marriage, to enlistment in the armed forces, to major surgery and to adoption, or to manage the estate of a minor.

(i) "Legal custodian" means the person or agency to whom a court has transferred a child's legal custody, and who thereby has the right and duty to protect, train and discipline the child and to provide for the

child's care needs. "Legal custody" has the meaning prescribed in s. 48.02 (12), Stats.

History: Cr. Register, August, 1982, No. 320, eff. 9-1-82.

HSS 52.02 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 the 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 par. (b), 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 purposes 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.

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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.

(i) Within 60 days after receiving a complete application for a child care institution license, the department shall either approve the application and issue the license or deny the application. If the application for a license is denied, the department shall give the applicant reasons, in writing, for the denial.

(4) FINANCING. (a) The board, with the executives, 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; renum. from PW-CY 40.51, Register, August, 1982, No. 320, eff. 9-1-82; cr. (3) (i), Register, October, 1985, No. 358, eff. 11-1-85.

HSS 52.03 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.

partment. 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, birthdate 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 s. HSS 52.06 (5) (b)).

3. Health records of children. (See s. HSS 52.05(7)(i)).

4. Personnel records. (See s. HSS 52.03(1)(c)).

5. Financial reports and audits. (See s. HSS 52.02 (4)(b)).

6. Copies of menus of all meals served. (See s. HSS 52.05 (8) (a) 5.).

7. Records of fire drills held. (See s. HSS 52.04 (9) (d)).

8. Log on the use of isolation rooms. (See s. HSS 52.05 (6) (g) 3.).

(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 s. 48.67 (3), 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. (See ss. HSS 52.04 (9) (j) and 52.05 (7) (j)). Major fire means a fire requiring the services of a fire department. "Serious injury" means an injury requiring hospitalization.

History: Cr. Register, August, 1982, No. 320, eff. 9-1-82.

*Emergency c.w. HSS 52.05 4.
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