



201 East Washington Avenue, Room E200
P.O. Box 8916
Madison, WI 53708-8916
Telephone: 608-266-8787
Fax: 608-266-5547

Governor Scott Walker
Secretary Eloise Anderson

Division of Safety and Permanence

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Child Welfare Licensing Memo Series 2015-05L

To: Private Child Placing Agencies
Group Homes
Residential Care Center for Children and Youth

From: Ron Hermes 
Bureau Director

RE: Out-of-Home Care Extension to Age 21 Changes

PURPOSE

The purpose of this memo is to provide information regarding technical changes to Chapter 48 of Wisconsin State Statutes that were included in the 2015-2017 biennial budget bill (2015 Wisconsin Act 55.) The technical changes clarify language for the extension of out-of-home care to the age of 21 and allow a facility to provide care for 4 or more children 18 years of age but under 21 without having a dual license as a community based residential care facility.

BACKGROUND

In the spring of 2014, the Governor signed 2013 Wisconsin Act 334, which extended out-of-home care for youth in the child welfare system to age 21 for those youth who are enrolled in school with an active Individualized Education Plan (IEP) in place. Wis. Act 334 required the Department of Children and Families to promulgate administrative rules. The emergency rules went into effect August 1, 2014 and the rule became permanent on May 1, 2015.

Wis. Act 334 did not address s. 50.01(1)(1g) of Wisconsin Statutes, which required a group home or residential care center for children and youth providing care to 5 or more adults to hold both a child welfare license and an adult license issued by the Department of Health Services. In order to address this issue, clarifying language was included in 2015 WI Act 55, eliminating the need to hold both licenses if a provider cares for more than 4 adults under s. 48.366.

INFORMATION SUMMARY

Wis. Act 55 created s.50.01(1g)(i). This provision adds group homes and residential care centers for children and youth to the list of facilities that **do not** require a community based residential facility license if they have 5 or more children who are 18 years of age but under 21 under s. 48.366.

This new language allows a group home or residential care center for children and youth to accept 5 or more placements under s. 48.366 without obtaining dual licensure. **The statute language**

does not apply to residents 18 and over who are not subject to the extended out-of-home care provisions of 48.366

In addition to creating the CBRF exception, Act 55 clarified the definition of “child” in subchapters XIII and XIV of Ch. 48, the new definitions of “child” are as follows:

Section 48.599 (1g) has been created to read: “Child” means a person under 18 years of age. For purposes of the authority to provide care and maintenance for a child placed in a residential care center for children and youth operated by a child welfare agency and of counting the number of children for whom a child welfare agency may provide such care and maintenance, “child” also includes a person 18 years of age or over, but under 21 years of age, who is placed in a residential care center for children and youth operated by a child welfare agency under an order under s. 48.355, 48.357, 48.365, 938.355, 938.357 or 938.365 that terminates after the person attains 18 years of age, under a voluntary transition-to-independent-living agreement under s. 48.366(3) or 938.366 (3), or under the placement under 42 USC 675 (8) (B)(iv).

Section 48.619 has been amended to read: 48.619 Definition. In this subchapter, “child” means a person under 18 years of age. For purposes of the authority to provide care and maintenance for a child and of counting the number of children for whom a foster home or group home may provide care and maintenance, “child” also includes a person 18 years of age or over, but under 21 years of age, who resides in the foster home or group home, under an order under s. 48.355, 48.357, 48.365, 938.355, 938.357, or 938.365 that terminates after the person attains 18 years of age, under a voluntary transition-to-independent-living agreement under 48.366(3) or 938.366(3), or under the placement and care responsibility of another state under 42 USC 675 (8)(b)(iv).

As a result of these changes, a person who is 18 years of age but under 21 may only be placed in a group home or residential care center for children and youth on a court order or a voluntary transition-to-independent-living agreement under s.48.366.

The changes detailed in this memo are effective immediately.

Please contact Mary Morse, Child Welfare Program Specialist if you have any questions.

CHILD WELFARE LICENSING SECTION CONTACT: Child Welfare Licensing Program Specialist
Division of Safety and Permanence
Bureau of Permanence and Out of Home Care
262-446-7856
DCFCWLR@wisconsin.gov

Attachment: 2015 Wisconsin Act 55
<https://docs.legis.wisconsin.gov/2015/related/acts/55>