

WISCONSIN ADMINISTRATIVE CODE



Division of Early Care and Education

DCF 252

LICENSING RULES FOR DAY CAMPS FOR CHILDREN

*effective January 1, 2009, and including updates from
CR 16-014 effective July 1, 2016, and CR 14-028
effective August 1, 2016.*

PREFACE

DCF 252 LICENSING RULES FOR DAY CAMPS FOR CHILDREN Effective January 1, 2009, and including updates from CR 16-014 effective July 1, 2016, and CR 14-028 effective August 1, 2016.

Section 48.65, Stats., requires that persons who provide, for compensation, care and supervision for 4 or more children under 7 years of age for less than 24 hours a day must be licensed by the department.

The same statute directs the department to establish rules which must be met for a person to qualify for a license and which protect and promote the health, safety and welfare of the children in a day care center. Chapter DCF 252 represents the minimum level of acceptable care that a licensee is to provide to children in a day camp in Wisconsin. Chapter DCF 250 represents the minimum level of acceptable care that a licensee is to provide to children in a family day care center serving 4 to 8 children. Chapter DCF 251 represents the minimum level of acceptable care that a licensee is to provide to children in a group day care center serving 9 or more children. The rules should not be confused with accreditation by professional organizations which is based upon conformity with ideal rather than minimal standards.

Chapter DCF 252 also references standards and procedures for determining compliance of day care programs established by school boards with licensing standards. Clearly, the fact that a day camp is licensed in no way diminishes the responsibility of parents for vigilance in seeing that their children are receiving care which protects their physical well-being and encourages healthy intellectual and emotional development.

Licensing rules should not be confused with certification for public funding of child care providers who care for between 1 and 3 children under age 7.

Whenever the rules in this chapter indicate that materials such as an application for licensure, a request for exception to a specific rule or a complaint about a center are to be sent to or requested from the Department, please refer to Appendix A which identifies the appropriate regional licensing office serving the county in which the center is located.

There is a header on each page that contains the rule cite for the section of the rule beginning on that page. A table of contents and an index are also included in this document as are appendices that contain key statutes related to the day camp rules and a copy of DCF 12 (administrative rules governing caregiver background checks).

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Subchapter I — Day Camps for Children

DCF 252.01 Scope. Sections DCF 252.01 to 252.44 apply to day camps for children.

DCF 252.02 Authority and purpose.

(1) **AUTHORITY.** This subchapter is promulgated under the authority of s. 48.67, Stats., to establish licensing requirements under s. 48.65, Stats., for child care centers and day camps for children.

(2) **PURPOSE.** The purpose of this chapter is to protect and promote the health, safety and welfare of children being cared for in day camps in Wisconsin.

(3) **CONSTRUCTION.** This chapter shall be liberally construed to effect the objectives in sub. (2).

(4) **EXCEPTION TO A REQUIREMENT.** The department may grant an exception to a requirement of this chapter when it is demonstrated to the satisfaction of the department that granting the exception will not jeopardize the health, safety or welfare of the children served. A request for an exception shall be in writing, shall be sent to the department, and shall include justification for the requested action and an explanation of the alternative provisions planned to meet the intent of the requirement.

Note: A request for an exception to a requirement of this chapter should be sent to the appropriate regional office of the Department's Division of Early Care and Education. See Appendix A for addresses of those regional offices.

DCF 252.03 Included and excluded care arrangements. This chapter applies to all day camps but it does not include family child care centers regulated under ch. DCF 250, group child care centers regulated under ch. DCF 251 or to any of the following:

Note: Section 48.65, Stats., exempts parents, guardians and certain other relatives; public and parochial (private) schools; persons employed to come to the home of the child's parent to provide care for less than 24 hours per day; and counties, cities, towns, school districts and libraries that provide programs for children primarily intended for social or recreational purposes from the requirement for a license. As specified under s. 49.155(4), Stats., or s. DCF 201.04(1), programs, other than those operated by public schools, are required to be licensed by the department or certified by a county agency in order to be eligible to receive a child care subsidy.

(1) Group lessons to develop a talent or skill, such as dance or music lessons, social group meetings and activities, and group athletic activities.

(1m) Care and supervision of children in a program, including religious education classes, which operates no more than 4 hours a week.

(2) Care and supervision while the parents are on the premises and are engaged in shopping, recreation or other non-work activities.

(3) Seasonal programs of 10 days or less duration in any 3-month period, including day camps, vacation bible school and holiday child care programs.

(4) Care and supervision in emergency situations.

(5) Care and supervision while the parent is employed on the premises if the parent's child receives care and supervision for no more than 3 hours a day.

(6) Care and supervision at the site while the parent who is a recipient of temporary assistance to needy families or Wisconsin Works is involved in orientation, enrollment or initial assessment prior to the development of an employability plan.

DCF 252.04 Definitions. In this subchapter:

- (2) “Base camp” means the permanent or temporary premises, public or private, on which the day camp is operated.
- (3) “Camp director” means the individual on the campsite who is responsible for the administration of the camp, including program operations, staff supervision, business operations, food service, health service, and other supportive services.
- (3g) “Camp-provided transportation” means transportation provided in a vehicle owned, leased or contracted for by the center or transportation provided in volunteer or staff-owned vehicles regardless of whether the driver is reimbursed for the use of the vehicle.
- (4) “Care” means providing for the safety and the developmental needs of a child in a day camp.
- (4m) “Caregiver background check” means the retrieval of information about an individual’s past criminal conduct pursuant to s. 48.685, Stats., and ch. DCF 12 that may bear on the suitability of that individual to assume a child caregiving role or have regular contact with children at the camp.
- (5) “Complaint” means an allegation that a provision of this chapter or of ch. 48, Stats., has been violated.
- (8) “Counselor” or “camp counselor” means a staff member who works directly with children.
- (9) “Day camp” or “camp” means a program regulated under this chapter that provides care and supervision to 4 or more children 3 years of age and older in a seasonal program oriented to the out-of-doors for periods less than 24 hours a day.
- (11) “Department” means the Wisconsin department of children and families.
- (11m) “Division” means the department’s division of early care and education.
- (12) “Emergency” means a situation requiring immediate attention, such as fire; tornado; flood; extreme heat or cold; loss of building service, including, no heat, water, electricity, or telephone; threats to the camp or its occupants; lost or missing children; medical emergency, or illness.
- (13) “Field trip” means any experience a child has away from the premises of the camp while under the care of camp staff whether the child walks or is transported.
- (13m) “Fit and qualified” means displaying the capacity to successfully nurture and care for children and may include consideration of any of the following:
- (a) Abuse of alcohol or drugs.
 - (b) A history of civil or criminal conviction or administrative rule violation that substantially relates to caring for children, as described in ch. DCF 12.
 - (c) Exercise of unsound judgment.
 - (d) A history of civil or criminal offenses or any other actions that demonstrate an inability to manage financial resources or the activities of a camp.
- (14) “Group” means a specific number of children who have a regularly assigned counselor responsible for the children’s well-being and meeting the children’s basic needs.
- (15) “Hazard” means a potential source of harm that can jeopardize the health, safety or well-being of children in care.
- (15m) “In care” means enrolled in the camp, with the camp providing supervision, either on or off the premises, for the safety and developmental needs of the child or children.

(16) “Inclement weather” means stormy or severe weather such as any of the following:

- (a) Heavy rain.
- (b) Temperatures above 90 degrees Fahrenheit.
- (c) Wind chills of 0 degrees Fahrenheit or below.

(17) “Licensee” means the corporation, individual, partnership or non-incorporated association or cooperative which has legal and financial responsibility for the operation of a day camp and for meeting the requirements of this chapter.

(18) “Licensing representative” means a department employee responsible for licensing day camps.

(19) “Parent” means either “parent” as defined in s. 48.02(13), Stats., or “guardian” as defined in s. 48.02(8), Stats.

(21) “Parochial or private school” means an educational program which meets all the criteria specified under s. 118.165(1), Stats., or as determined by the superintendent of public instruction under s. 118.167, Stats.

(21g) “Pet” means an animal kept for amusement or companionship.

(21r) “Physical restraint” means the use of physical force to restrict the free movement of all or part of a child’s body.

(22) “Physician” has the meaning prescribed in s. 448.01(5), Stats.

(22m) “Pre-camp training” means a program developed by the licensee containing the elements specified in s. DCF 252.42(2)(a) and attended by camp staff prior to the opening of each year’s camp session.

(23) “Premises” means a tract of land on which the camp is located, including all buildings, structures, or shelters on that land.

(23m) “Regularly assigned counselor” means a person who meet the requirements of a counselor under s. DCF 252.42 and who is assigned to a specific group of children.

(24) “Shaken baby syndrome” or “SBS” means a severe form of brain injury that occurs when an infant or young child is shaken or thrown forcibly enough to cause the brain to rebound against his or her skull.

(25) “Supervision of children” means guidance of the behavior and activities of children for their health, safety and well-being by counselors who are close enough to prevent harm and assure safety.

(26) “Supervision of staff” means guidance of the behavior and activities of camp employees which may include provision of instructions to carry out activities for limited periods of time out of sight or hearing of the supervisor.

(27) “Universal precautions” mean measures taken to prevent transmission of infection from contact with blood or other potentially infectious material, as recommended by the U.S. public health services centers for disease control and adopted by the U.S. occupational safety and health administration (OSHA) as 29 CFR 1910.1030.

Note: “Standard precautions” for infection control measures incorporate universal precautions. Information on the OSHA requirements related to standard or universal precautions is available on the OSHA website at <http://osha.gov>. Information is also available from the Child Care Information Center, 1-800-362-7353.

(28) “Volunteer” means a person who agrees to give time, with or without reimbursement for expenses, to provide transportation or to work in a day camp.

(29) “Waterfront supervisor” means an adult present in a water activity area during times when children are using the water and who meets the requirements under s. DCF 252.44(7)(b).

DCF 252.05 Licensing administration.**(1) LICENSING PROCEDURES.**

(a) A person making an inquiry to the department about obtaining a license to operate a day camp shall be provided with all of the following:

1. A copy of this chapter.
2. Written procedures on how to obtain a day camp license.
- 2m. A copy of the Background Information Disclosure form.
3. An opportunity to meet with a licensing representative to discuss the materials.
4. The necessary forms if licensing is desired.
5. Assistance to complete the licensing process by a licensing representative.

Note: A packet of materials, including the License Application — Day Camp for Children form, is available from any of the regional offices listed in Appendix A.

(b) An applicant shall submit an application and other materials required for day camp licensure and license continuation on forms provided by the department at least:

1. Sixty days prior to the date proposed for the camp to begin operating.
2. Thirty days prior to the end of the current license continuation period.

(c) An applicant for an initial day camp license or a licensee continuing a regular license shall submit all of the following materials to the department:

1. A clearly defined statement of purpose as it relates to the provision of child care services.
2. A signed statement by the applicant or licensee accepting legal responsibility for complying with this chapter.
3. The articles of incorporation and by-laws if the camp is organized as a corporation, association or cooperative.
4. A signed authorization which permits the department to make whatever investigation it considers necessary for the verification of pertinent application information.
5. A general description of the camp area, geographic location and size of the base camp or the proposed itinerary of field trips if a program will consist primarily of field trips.
6. A written delegation of administrative authority signed by the licensee. The delegation of administrative authority shall describe the organizational structure of the camp and identify by position or name those persons on the premises in charge of the camp for all hours of operation.
7. The name, address, and telephone number of the person to be contacted by the licensing representative for the pre-camp licensing review.
8. A statement from the state laboratory of hygiene or a state approved laboratory indicating that the water from a private well providing drinking water has been tested and found to be safe.
9. The license fee required under s. 48.65(3)(a), Stats.
10. A completed Background Information Disclosure form provided by the department for the applicant and if the camp will be located in a residence, any household member aged 10 and above.

Note: The form, Background Information Disclosure, is used for reporting background information. Information on how to obtain the form is available on the department's website <http://dcf.wisconsin.gov>, or from any of the regional offices in Appendix A.

11. A statement from the applicant that indicates the camp is in compliance with this chapter.
12. A copy of all the policies required under s. DCF 252.41(1)(f) and (g) and a completed copy of the day camp policy checklist on a form provided by the department.

Note: Information on how to obtain a copy of the form, Policy Checklist — Day Camp, is available on the department's website <http://dcf.wisconsin.gov>, or from any of the regional offices in Appendix A.

13. The test results from the water on any beach on the premises of the camp that will be used for waterfront activities by the children in care.
14. A report indicating that any building used primarily for day camp purposes is in compliance with applicable commercial building codes.
15. Any other materials determined by the department as necessary to complete the department's licensing investigation.

(d) Upon submission of a complete application, a licensing representative shall conduct an investigation to determine whether the applicant is eligible for a license.

(e) If the department determines that the applicant for an initial license is eligible for a license, the department shall issue a probationary license having a 6-month duration. A probationary license may be renewed for one 6-month period.

(f) If the department determines that an application for an initial license does not comply with the applicable requirements of this chapter or the department's investigation determines that the applicant is not eligible for a license, the department may deny the application.

(g) A regular license shall be valid indefinitely, unless suspended or revoked by the department or surrendered by the licensee.

(h) If the department determines that the licensee continuing a regular license has met the minimum requirements for a license under s. 48.67, Stats., has paid the applicable fees referred to in ss. 48.65 and 48.685(8), Stats., any forfeiture under s. 48.715(3)(a), Stats., and any penalty under s. 48.76, Stats., the department shall continue the license for an additional 2 years.

(2) AMENDMENT TO LICENSE. A written request for an amendment to the license shall be submitted to the department by the licensee before changes are made in the conditions of the current license such as a change in the licensed capacity of the camp, age range of children, hours, days of the week, months of the year in operation or change in the name of the camp.

(3) TERMS OF LICENSE.

(a) The number of children under 7 years of age in care of the center at any one time may not exceed the number for which the center is licensed.

(b) The age of children served may not be younger or older than the age range specified in the terms of the license.

(c) The hours, days and months of a center's operation may not exceed those specified in the license.

(4) ADDITIONAL LICENSE. A licensee seeking licensure for an additional day camp or child care center location shall demonstrate compliance with applicable parts of this chapter in the operation of the existing center. The licensee shall pay any fines, forfeitures or other fees due to the department under s. 48.715, Stats., on other facilities licensed by the department before the department issues an additional license.

(5) CONDITION OF LICENSURE. The department may deny a license or may suspend or revoke a license, initiate other enforcement actions specified in this chapter or in ch. 48, Stats., or place conditions on a license if the licensee, applicant or proposed or current employee, volunteer, household member or any other person having regular contact with children is, or has been any of the following:

(a) The subject of a pending criminal charge if the charge substantially relates to the care of children or activities of the camp.

(b) Convicted of a felony, misdemeanor or other offense which substantially relates to the care of children or activities of the camp.

(c) Determined to have abused or neglected a child pursuant to s. 48.981, Stats., or has been determined to have committed an offense which substantially relates to the care of children or the activities of the camp.

(d) The subject of a court finding that the person has abandoned his or her child, has inflicted sexual or physical abuse on a child or has neglected or refused, for reasons other than poverty, to provide necessary care, food, clothing, medical or dental care or shelter so as to seriously endanger the physical health of a child.

(e) The subject of a substantiated finding of misconduct in the department's nurse aide registry under s. DHS 129.10.

(f) Had a child care center license, day camp license or certification revoked or denied within the last 5 years.

(g) Violated any provision of this chapter or ch. 48, Stats., or fails to meet the minimum requirements of this chapter.

(h) Made false statements or withheld information.

(6) SUMMARY SUSPENSION OF A LICENSE.

(a) Under the authority of s. 227.51(3), Stats., the department may order the summary suspension of a license and, therefore, close a day camp when the department finds the public health, safety or welfare requires emergency action and incorporates a finding to that effect into its order. A finding of the requirement for summary suspension of the license may be based on any of the following:

252.05(6)(a)1.

1. Failure of the licensee to provide environmental protections for the children such as heat, water, electricity or telephone service.
2. The licensee, an employee, a volunteer, a household member or any other person in regular contact with the children in care has been convicted of or has a pending charge for a crime against life or bodily injury.
3. The licensee, an employee, a volunteer, a household member or any other person in regular contact with the children in care has been convicted of a felony, misdemeanor or other offense or has a pending criminal charge which substantially relates to the circumstances of caring for children or activities of the camp.
4. The licensee, an employee, a volunteer, a household member or any other person in regular contact with the children in care is the subject of a current investigation for alleged child abuse or neglect pursuant to s. 48.981, Stats., or has been determined by a child protected services agency or law enforcement agency to have abused or neglected a child.

Note: Examples of actions the department will consider in making determinations under s. DCF 252.05(5) and (6), are: abuse and neglect of children; sexual assault; abuse of residents of facilities; crimes against life and bodily security; kidnapping; abduction; arson of buildings or property other than buildings; robbery; receiving property from children; crimes against sexual morality, such as enticing a minor for immoral purposes or exposing minors to harmful materials and interfering with the custody of a child. The list is illustrative. It is not all-inclusive of the types of offenses that may be considered.

5. The licensee or a person under the supervision of the licensee has committed an action or has created a condition relating to the operation or maintenance of the day camp that directly threatens the health, safety or welfare of any child under the care of the licensee.

(b) An initial order summarily suspending the license and closing a day camp may be a verbal order by a licensing representative. The department shall within 72 hours of the closing either permit the reopening of the center or initiate proceedings in accordance with s. 227.51(3), Stats., for the revocation of the license to operate. A preliminary hearing on the revocation shall be conducted by the department of administration's division of hearings and appeals within 10 working days after the date of the initial order to close on the issue of whether the license shall remain suspended during revocation proceedings.

(7) LICENSE DENIAL OR REVOCATION.

(a) The department may deny or revoke a license, initiate other enforcement actions specified under this chapter or under ch. 48, Stats., or place conditions on a license if the applicant or licensee, a proposed or current employee, a volunteer or any other person having regular contact with the children, is any of the following:

1. The subject of a pending criminal charge for an action that substantially relates to the care of children or activities of the camp.
2. Convicted of a felony, misdemeanor or other offense that substantially relates to the care of children or activities of the camp.
3. Determined to have abused or neglected a child pursuant to s. 48.981, Stats., or has been determined to have committed an offense which substantially relates to the care of children or the activities of the camp.
4. The subject of a substantiated finding of misconduct in the department's nurse aide registry under s. DHS 129.10.
5. The subject of a court finding that the person has abandoned his or her child, has inflicted sexual or physical abuse on a child or has neglected or refused, for reasons other than poverty, to provide necessary care, food, clothing, medical or dental care or shelter for his or her child or ward or a child in his or her care so as to seriously endanger the physical health of the child.
6. Determined to have had a child care center license, day camp license or certification revoked or denied within the last 5 years.
7. Determined to have violated any provision of this chapter or ch. 48, Stats., or fails to meet the minimum requirements of this chapter.
8. Determined to have made false statements or withheld information.

(b) The department may deny, revoke, refuse to renew or suspend a license, initiate other enforcement actions specified in this chapter or in ch. 48, Stats., or place conditions on the license if the applicant or licensee is not fit and qualified as determined under sub. (10)(a).

Note: See DCF 252.04(13m) for the definition of fit and qualified. Examples of charges, actions or offenses the department will consider in making a determination under this paragraph that an act substantially relates to the care of children include but are not limited to: abuse or neglect of a child; sexual assault; abuse of a resident of a facility; a crime against life and bodily security; kidnapping; abduction; arson of a building or of property other than a building; robbery; receiving stolen property from a child; a crime against sexual morality, such as enticing a minor for immoral purposes or exposing a minor to harmful materials, interfering with the custody of a child; or civil or criminal actions demonstrating an inability to manage financial resources or activities of the camp. The list is illustrative. Other types of offenses may be considered.

(c) The department may not license a person if the department has received certification pursuant to s. 49.857(2), Stats., from the department of workforce development that the applicant or licensee has failed to pay court-ordered payments of child or family support or expense related to the support of a child or former spouse or has failed to comply with a subpoena or warrant issued by the department of workforce development or a county child support agency related to paternity or child support proceedings. Notwithstanding s. 48.72, Stats., an action taken under this subsection is subject to review only as provided under s. 49.857, Stats., and not as provided in s. 48.72, Stats.

(d) The department may not license a person if the department has received certification pursuant to s. 73.0301, Stats., from the department of revenue certifying that the applicant or licensee has a delinquent tax liability. An action taken under this paragraph is subject to review only as provided under s. 73.0301(5), Stats., and not as provided in s. 48.72, Stats.

(8) EFFECT OF NOTICE TO REVOKE OR DENY A LICENSE.

(a)1. If the department decides under sub. (7) to deny a license or to revoke a license, the department shall notify the applicant or licensee in writing of its decision and the reasons for that decision.

2. If the department revokes a license, the effective date of the revocation shall be either immediately or 30 days after the date of the notice, based on the criteria under s. 48.715(4m)(a) and (b), Stats., unless the decision is appealed under sub. (9).

(b) Upon receipt of the notice under par. (a) and during any revocation or denial procedures which may result, a day camp may not accept for care any child not enrolled as of the date of receipt of the notice without the written approval of the department.

(9) APPEAL OF DECISION TO DENY OR REVOKE A LICENSE. Any person aggrieved by the department's decision to deny a probationary or regular license or to revoke a license may request a hearing on that decision under s. 227.42, Stats. The request for a hearing shall be in writing and submitted to the department of administration's division of hearings and appeals. The request for a hearing shall be sent to the division of hearings and appeals within 10 days after the date of the notice under sub. (8). A request for a hearing is considered filed upon its receipt by the division of hearings and appeals. A request for a hearing transmitted by facsimile to the division of hearings and appeals shall be considered filed on the date and time imprinted by the division's facsimile machine on the transaction report that accompanies the document. Documents received by facsimile after midnight local time shall be deemed filed on the first following business day.

Note: A request for hearing should be submitted by mail to the Division of Hearings and Appeals, P.O. Box 7875, Madison, Wisconsin 53707-7875, or should be delivered to the Division at 5005 University Ave., Room 201, Madison, Wisconsin. Hearing requests may be faxed to 608-264-9885. A copy of the request should be sent to the appropriate regional licensing office listed in Appendix A.

(10) GENERAL CONDITIONS FOR APPROVAL OF A LICENSE.

(a) Persons licensed to operate a day camp shall be responsible, mature individuals who are fit and qualified. In determining whether an applicant is fit and qualified, the department shall consider any history of civil or criminal violations or other offenses substantially related to care of children by the applicant, owner, manager, representative, employee, camp resident, or other individual directly or indirectly participating in the operation of the day camp. A determination of being unfit and unqualified includes substantiated findings of child abuse or neglect under ch. 48, Stats., or substantiated abuse under ch. 50, Stats., or under similar statutes in another state or territory whether or not it results in a criminal charge or conviction.

252.05(10)(b)

(b) The department shall issue a day camp license to an applicant within 60 working days after receipt and department approval of a properly completed application, satisfactory department investigation and determination that the applicant is fit and qualified. Continued licensure requires a licensee to remain fit and qualified.

Note: See DCF 252.04(13m) for the definition of “fit and qualified.”

(c) A facility that provides care on a regular basis to 4 or more children under the age of 7 years shall be deemed to be providing care for compensation and shall be licensed.

(d) Prior to receiving a license, an applicant for a license under this chapter shall complete all application forms truthfully and accurately and pay all fees and forfeitures due to the department.

(e) The department may refuse to issue or continue a license if another program operated by the licensee is in substantial non-compliance with the licensing rules or has any outstanding fines or forfeitures.

(f) If the department has reason to believe that the physical or mental health of any person associated with the care of children at the camp or any household member of the camp might endanger children in care, the department may require that a written statement be submitted by a physician or, if appropriate, by a licensed mental health professional that shall certify the condition of the individual and the possible effect of that condition on the day camp or children in care.

(g) The department may deny or revoke the license if the examination specified under par. (f) gives the department reasonable concern for the care of children.

(h) The department may not process an application for a license if the applicant has had a license or certification to operate a day camp or child care center revoked or denied within the last 2 years. An applicant is deemed ineligible to submit an application for a license and a licensee may not hire an employee within 2 years from the date an applicant or employee had a child care or day camp license or certification revoked or denied.

(i) The department shall consider a licensee who fails to submit any of the materials described in sub. (1)(c) by the expiration or continuation date of a license to have surrendered his or her license and to no longer hold title to the license. The former licensee may not continue to operate the day camp.

DCF 252.06 Complaints, inspections and enforcement actions.

(1) COMPLAINTS. Anyone having a complaint about a licensed or illegally operating day camp may submit that complaint to the department by telephone, letter, e-mail, fax or personal interview. Every complaint shall be investigated by a licensing representative. A written report of the findings of the investigation shall be sent to the complainant upon request.

Note: A complaint should be sent, phoned or delivered to the appropriate regional licensing office listed in Appendix A.

(2) INSPECTION.

(a) Pursuant to s. 48.73, Stats., the department may visit and inspect any day camp at any time during licensed hours of operation. A department licensing representative shall have unrestricted access to the premises, either temporary or permanent, identified in the license; children served; staff records and any other materials or other individuals as determined by the department.

(b) At least once per year, the department shall inspect each vehicle that is required to have a child safety alarm under s. DCF 252.09(5)(a) to determine whether the child safety alarm is in good working order.

(3) ENFORCEMENT ACTION. The department may order any sanction or impose any penalty on a licensee in accordance with s. 48.685, 48.715 or 48.76, Stats.

DCF 252.07 Non-discrimination, confidentiality and reporting child abuse.**(1) DISCRIMINATION PROHIBITED.**

(a) The licensee shall ensure that the day camp does not discriminate in employment against properly qualified individuals in a manner prohibited in ss. 111.31 to 111.395, Stats.

(b) The licensee shall ensure that the day camp does not discriminate against any enrolled child and family or any applicant for enrollment in admission, privilege of enrollment, or discharge condition on the basis of age, race, color, sex, sexual orientation, creed, disability, national origin, or ancestry as provided in s. 106.52, Stats.

(2) CONFIDENTIALITY OF RECORDS.

(a) The licensee is responsible for the day camp's compliance with s. 48.78, Stats., and this subsection.

(b) Persons who have access to children's records may not discuss or disclose personal or other information about a child or a child's relatives. This paragraph does not apply to any of the following:

1. The parent or a person authorized in writing by the parent to receive such information.
2. An agency that is assisting in planning for the child if the parent has given consent.
3. An agency authorized under s. 48.78, Stats., to have access to children's records.

(c) If a parent requests a record or report on the parent's child, the day camp shall make the record or report accessible to the parent upon request.

(d) All records required by the department for licensing purposes shall be made available to licensing representatives upon request.

(3) REPORTING CHILD ABUSE.

(a) A licensee who knows or has reasonable cause to suspect that a child has been abused or neglected as defined in s. 48.981(1), Stats., shall immediately contact the county welfare agency, or local law enforcement agency in compliance with s. 48.981, Stats.

(b) The licensee shall ensure that every day camp worker who comes in contact with the children at the day camp has received annual pre-camp training in all of the following:

1. Child abuse and neglect laws;
2. Identification of children who have been abused or neglected; and
3. The process for reporting known or suspected cases of child abuse or neglect.

Note: Failure of the licensee to report known or suspected incidents of child abuse or neglect does not lessen the legal duty of the child care worker to report known or suspected cases of child abuse or neglect.

DCF 252.08 Pets and other animals.

(1) Pets that are kept on the premises of a day camp shall be maintained in good health and appropriately vaccinated against rabies. Rabies vaccinations shall be documented with a current certificate from a veterinarian.

(2) A pet that is suspected of being ill, or infested with external lice, fleas, ticks or internal worms shall be removed from the camp.

(3) In the event that an animal bites a child, the parent shall be notified and a veterinarian shall be contacted by center personnel to determine a course of action in the diagnosis of possible rabies in the animal. Procedures for emergency care of children shall be followed. Parents shall be notified of any action taken by the veterinarian.

(4) Turtles, skunks, exotic animals, wild animals and poisonous reptiles may not be kept as pets on the premises of the day camp.

(5) Animal pens shall be kept clean.

(6) All contact between pets or animals and children shall be under the supervision of a camp counselor who is close enough to remove the child immediately if the pet or animal shows signs of distress or the child shows signs of treating the pet or animal inappropriately. Pets shall be kept and handled in a manner which protects the well-being of both children and pets.

(7) Pets in rooms used by children shall be confined in cages while food is being prepared or served. Pets, cages and litter boxes are prohibited in kitchens, lunch rooms and other food storage areas. Pet and animal feeding dishes and litter boxes may not be placed in areas accessible to children.

(8) No horses or other livestock may be permanently quartered closer than 500 feet from any building in which the day camp is located.

(9) Pets that pose any risk to the children shall be restricted from the areas used by children.

(10) Procedures to be followed when children have contact with animals, other than pets, while in the care of the camp shall be included in the camp's health policy.

Note: Service animals used by a person with a disability to assist that person are not considered pets under this rule while they are working as a service animal.

DCF 252.09 Transportation. The following requirements apply to all camp-provided transportation of children, including both regularly scheduled transportation to and from the camp and field trip transportation:

(1) GENERAL.

(a) The camp shall assume responsibility for a child between the time the child is placed in a vehicle until the child reaches his or her destination and is released to a person responsible for the child.

(c)1. Whenever the camp contracts with a firm for the provision of transportation, the camp shall ensure that the firm complies with all applicable requirements of this subsection.

2. When services for transportation are contracted, the name, address and telephone number of the contracting firm and the name of a representative of the firm who may be contacted after hours shall be on file at the camp.

(d) When children are transported in school buses as defined in s. 340.01(56), Stats., the school buses shall comply with ch. Trans 300.

(e) When regularly scheduled transportation is provided by the camp, the name of each driver, type of license held and the date of expiration of the license shall be on file at the camp.

(f) The camp shall maintain a written plan for regularly scheduled transportation of children between the children's homes or camp pick-up and drop-off locations and the camp, which shall include:

1. A list of children transported and the method of taking daily attendance;
2. The transportation route and scheduled stops;
3. The name and address of the person authorized to receive the child if the child is dropped off at a place other than the child's residence; and
4. Procedures to be followed when the parent or designated authorized adult is not at home to receive the child.

(g) The camp shall have written safety precautions to be followed when transporting children with disabilities or children who have a limited ability to respond to an emergency.

(h) The following information shall be carried in the vehicle for each child being transported:

1. An address and telephone number where a parent or other adult can be reached in an emergency.
2. The name, address, and telephone number of the child's physician or medical facility.
3. Written consent from the child's parent for emergency medical treatment.

Note: The licensee may use either the department's form, Child Care Center Transportation Permission, or the licensee's own form to obtain consent of the child's parent for emergency medical treatment. Forms may be obtained from the department's website, <http://dcf.wisconsin.gov>, or from any regional licensing office in Appendix A.

(i) Smoking is prohibited in the vehicle while children are being transported.

(2) DRIVER.

(a) The driver of a vehicle used to transport children enrolled in the camp shall have a valid Wisconsin operator's license for the type of vehicle being driven.

(b) The camp shall have a copy of the driver's driving record on file before that person may drive a camp-provided vehicle. The licensee shall annually obtain and review each driver's driving record to ensure that the driver has no accidents or traffic violations that would indicate that having children ride with the driver could pose a threat to the children.

Note: Information on how to obtain driver license records can be obtained by calling the Department of Transportation at 608-261-2566 or via the Internet at <http://www.dot.wisconsin.gov/drivers/drivers/points/abstract.htm>.

(c) The driver of a vehicle shall be at least 18 years of age and have at least one year of experience as a licensed driver.

(3) VEHICLE.

(a) All vehicles used to transport children shall be registered by the state of Wisconsin.

(b) All vehicles used to transport children shall be in safe operating condition, and at 12-month intervals the licensee shall provide the department with evidence of the vehicle's safe operating condition on a form provided by the department.

Note: Form, Vehicle Safety Inspection, may be obtained from the department's website at <http://dcf.wisconsin.gov> or from any regional office listed in Appendix A.

(c) Vehicles used to transport children shall be equipped with a first aid kit.

(d) All vehicles shall be clean, uncluttered, and free of obstructions on the floors, aisles and seats.

- (e) All vehicles shall be enclosed. Children may not be transported in a truck except in the cab.
- (f) Children transported in school buses or vehicles built to school bus standards shall be properly seated according to the manufacturer's specifications.
- (g) 1. Each child under 4 years of age or who weighs less than 40 pounds being transported in a vehicle shall be properly restrained in a forward-facing child car safety seat as specified in s. 347.48, Stats.
- 2. Each child who is at least 4 years of age but less than 8 years, weighing not more than 80 pounds or taller than 4 feet 9 inches shall be properly restrained in a shoulder-positioning child booster seat before being transported in a vehicle as specified in s. 347.48, Stats.
- 3. Each child not required to be transported in an individual child car safety seat or booster seat shall be properly restrained by a seat belt. Each adult in a vehicle shall be properly restrained by a seat belt. Seat belts may not be shared.
- (h) Doors shall be locked at all times when the vehicle is moving.
- (i) A copy of any accident report shall be submitted to the department within 5 days after the occurrence of an accident involving a vehicle transporting children.

(4) VEHICLE CAPACITY AND SUPERVISION.

- (a) Children may not be left unattended in the vehicle.
 - (b) When children are transported in a vehicle there shall be at least one adult supervisor in addition to the driver whenever there are more than 3 children who have a disability or limited ability to respond to an emergency.
 - (c) There shall be at least one adult supervisor in addition to the driver when there are more than 10 children under 5 years of age in the vehicle.
 - (d) There shall be at least one adult supervisor in addition to the driver when there are more than 17 children 5 years and older in the vehicle.
 - (e) After transporting a child to his or her destination, the driver shall wait until the child enters the building or is in the hands of an adult designated by the parent, unless otherwise authorized by the parent.
- Note:** The licensee may use either the department's form, Alternate Arrival/Release Agreement — Child Care Centers, or the licensee's own form for securing the parent's signed authorization. Information on how to obtain the department's form is on the department's website at <http://dcf.wisconsin.gov> or from any regional office in Appendix A.
- (f) A seat shall be provided for each child. In a vehicle not required to have seat belts, the camp shall follow the manufacturer's recommendation regarding the capacity of the vehicle.
 - (g) The driver or adult supervisor shall be responsible for seeing that children remain seated while the vehicle is in motion.
 - (h) Children under age 13 may not ride in the front seat.
 - (i) The camp shall implement a procedure to ensure that all children exit the vehicle after transportation to a destination.

(5) CHILD CARE VEHICLE SAFETY ALARM.

- (a) A vehicle shall be equipped with a child safety alarm that prompts the driver to inspect the vehicle for children before exiting if all of the following conditions apply:
 1. The vehicle is owned or leased by a licensee or a contractor of a licensee.
 2. The vehicle has a seating capacity of 6 or more passengers plus the driver. The seating capacity of the vehicle shall be determined by the manufacturer.
 3. The vehicle is used to transport children in care.
- (b) No person may shut off a child safety alarm unless the driver first inspects the vehicle to ensure that no child is left unattended in the vehicle.
- (c) The child safety alarm shall be in good working order each time the vehicle is used for transporting children to or from a base camp.

Note: Information on the required vehicle safety alarm is available in the "child care licensing / information for providers" section of the department website at <http://dcf.wisconsin.gov>.

DCF 252.41 Operational requirements for day camps.

(1) ADMINISTRATION. The licensee shall do all of the following:

(a) Comply with all laws governing the camp and its operation.

(b) Comply with all requirements in this chapter.

(c) Designate, in writing, as part of the application under s. DCF 252.05(1), a Wisconsin resident who is responsible on behalf of the licensee for ensuring compliance with all requirements in this chapter, if the licensee resides in another state.

(d) Meet, upon request, with the licensing representative on matters pertaining to licensing.

(e) Provide documentation of insurance coverage by the submission of a certificate of insurance reflecting current dates of coverage for:

1. General liability insurance which provides coverage with limits of not less than \$25,000 for each person and total limits of \$75,000 for each occurrence.

2. Vehicle liability insurance, when transportation is provided, with minimums no less than those specified in s. 121.53, Stats.

3. Non-owned vehicle liability insurance when transportation is provided by other than camp-owned vehicles.

4. Specific adventure-based activities identified in s. DCF 252.44(13) when offered as part of the camp program.

(f) Develop written policies and procedures on the following subjects, submit them to the department for review and implement them:

1. Discharge of enrolled children.

2. Fee payments and refunds.

3. Personnel policies including job descriptions, hours of work, lunch and break times, holidays, vacations, sick leaves, leaves of absence, probationary periods, performance evaluations, grievance procedures and the disciplinary process. The personnel policy shall also contain a procedure requiring staff to notify the licensee and the licensee to notify the department as soon as possible but no later than the next working day when any of the following occurs:

a. The employee has been convicted of a crime.

b. The employee has been or is being investigated by any governmental agency for any other act, offense, or omission, including an investigation related to the abuse or neglect or threat of abuse or neglect, to a child or other client, or an investigation related to misappropriation of a client's property.

c. The employee has a governmental finding substantiated against them of abuse or neglect of a child or adult or of misappropriation of a client's property.

d. When a professional license held by a provider has been denied, revoked, restricted or otherwise limited.

(g) Develop, submit to the department for approval, and implement approved written policies and procedures on all the following subjects:

1. Admission, including a procedure to contact a parent if a child is absent from the camp without prior notification from the parent.

2. Program objectives and a description of activities designed to carry out the program objectives.

3. Transportation if children may be transported to and from the camp or for field trips. The policy shall include a procedure to ensure that no child has been left unattended in a vehicle.

4. Plans to be followed in the event of a fire, tornado, missing child or other emergency. If an open-sided shelter is used as a base camp, the plan shall identify the location of a designated tornado shelter and the procedure to ensure the camp receives information about tornado watches or warnings. The plan shall include a procedure to ensure that children reach the tornado shelter in a timely fashion.

5. The plan for providing pre-camp training to staff.

6. The plan for supervising children during water activities and waterfront activities including emergency procedures to be carried out if a child participating in water activities cannot be found.

7. Child guidance, including ways to manage crying, fussing or distraught children.

8. Health, including procedures to be followed when there is contact with animals.

9. Nutrition.

(h) Make available to the parents, on request, a copy of the applicable parts of this chapter and a copy of the child care policies of the camp. Personnel, in-service training and orientation policies need not be included.

- (i) Ensure that all published statements such as brochures and publicity are accurate.
 - (j) Include a reference to the religious component in any publicity and program objectives if religious training is part of the camp program. This information shall be shared with parents.
 - (k) Post the day camp license at the base camp in an area visible to parents and the public.
 - (L) Post next to the day camp license the results of the most recent licensing inspection, including any rule violations cited by the department and any notice of enforcement action, including license revocation or denial, and any stipulations, conditions, or exceptions that affect the license.
 - (m) Ensure that any action, by commission or omission, or any condition or occurrence relating to the operation or maintenance of the day camp does not adversely affect the health, safety or welfare of any child under the care of the licensee.
 - (n) Submit to the department by the department's next business day a completed Background Information Disclosure form and appropriate caregiver background check fees when there is a change in board chairperson or a person aged 10 and above becomes a camp household member.
 - (o) Submit to the department by the department's next business day a completed Background Information Disclosure form for each current camp household member who turns age 10.
- Note:** For more information about caregiver background checks refer to the administrative rule under ch. DCF 12. Information on how to obtain a copy of the Background Information Disclosure form is available from the department's website, <http://dcf.wisconsin.gov>, or any regional licensing office in Appendix A.
- (p) Submit a written delegation of administrative authority signed by the licensee. The delegation of administrative authority shall describe the organizational structure of the camp and identify by position or name, those person on the premises of the camp who are in charge of the camp for all hours of operation.

(2) REPORTS. The licensee shall report to the department all of the following. If the report was made via telephone, the licensee shall submit a written report to the appropriate regional licensing office within 5 business days. Fax, e-mail and letter are acceptable ways of filing a written report:

- (a) The death of a child in care or any accident or incident that occurs while the child is in the care of the camp that results in professional medical treatment, within 48 hours of the licensee becoming aware of the medical treatment.

Note: The licensee may use either the department's form, Child Care Accident Report, or the licensee's own form to report accidents. Information on how to obtain forms is available from the department's website, <http://dcf.wisconsin.gov>, or any regional licensing office in Appendix A.

- (b) Any damage to the base camp which may affect compliance with this chapter within 24 hours after the occurrence.
- (d) A change of the day camp director, within 7 days after the change.
- (e) Statistical data required by the department on forms provided by the department.
- (f) Any known convictions, pending charges or other offenses of the licensee, day camp employees or other persons subject to a caregiver background check which could potentially relate to the care of children at the camp or the activities of the camp by the department's next business day.
- (g) Any suspected abuse or neglect of a child by a staff member that was reported under s. DCF 252.07(3)(a) or any inappropriate discipline of a child, including any incident that results in a child being forcefully shaken or thrown against a surface, hard or soft, by a staff member during the child's hours of attendance, within 24 hours after the occurrence.
- (h) Any incident involving law enforcement within 24 hours after the occurrence in which any of the following occurs:
 1. A licensee, a household member or an employee of the camp is involved in an incident that causes, or threatens to cause, physical or serious emotional harm to an individual, including a child in the care of the camp.
 2. A person responsible for transporting children is involved in a traffic-related incident.
 - (i) Any change in room usage in the base camp, such as using rooms or areas not previously approved for use by children at least 20 working days prior to the change. Changes in room usage shall be approved by the department prior to the change.
 - (j) Any incident related to a child who leaves the premises of the camp without the knowledge of a counselor or any incident which results in a counselor not knowing the whereabouts of a child in attendance at the camp within 24 hours after the occurrence.

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(k) If requested by the department, a plan of correction for cited violations of this chapter or ch. 48., Stats., in a format specified by the department. The department shall receive the plan of correction by the date the department specifies and the plan shall be approved by the department licensing representative.

Note: The licensing representative will notify the licensee if a plan of correction is required and provide the plan of correction format with the notification.

(L) Any construction or remodeling on the premises that has the potential to affect an area accessible to children or a condition of the license. Notification shall be in writing before the construction or remodeling begins.

Note: It is recommended that the licensee check with the local municipality to determine whether a building permit is required before beginning any construction or remodeling.

(3) STAFF RECORDS. The licensee shall:

(a) Maintain a file on each employee which is available for examination by the licensing representative. Each employee's file shall include all of the following:

1. The employee's name, address, date of birth, education, position, previous experience in child care including the reason for leaving previous positions and the name, address, and telephone numbers of persons to be notified in an emergency.

Note: The licensee may use the department's form, Staff Record — Child Care Centers, or the licensee's own form for recording staff information. Information on how to obtain the department's form is available from the department's website, <http://dcf.wisconsin.gov>, or any regional licensing office in Appendix A.

2. Documentation of any pertinent certification or training required for the position; including department-approved training in shaken baby syndrome prevention and the effects of shaking an infant or young child, taken before to beginning to work with children, if the person will provide care to children under age 5 years.

3. A Background Information Disclosure form, completed before the employee's first day of employment and every 4 years thereafter.

Note: The department's form, Background Information Disclosure is used for reporting background information. Information on how to obtain the form is available from the department's website, <http://dcf.wisconsin.gov>, or any regional licensing office in Appendix A.

4. A complete caregiver background check as specified in s. 48.685, Stats., and ch. DCF 12 including the results of any subsequent investigation related to information obtained as part of the background check within 60 days of employment and every 4 years thereafter.

5. Documentation of successful completion of pre-camp training.

Note: The licensee may use the department's form, Pre-camp Training Documentation — Day Camps, or the licensee's own form to document the successful completion of pre-camp training. Information on how to obtain the department's form is available from the department's website, <http://dcf.wisconsin.gov>, or any regional licensing office in Appendix A.

6. Documentation of the days and hours worked when the person was included in the counselor-to-child ratio.

(b) Maintain a listing at the base camp of the name, address, and telephone number of the person to be notified in the event of an emergency involving an employee.

(c) Maintain a staff record which meets the requirements specified in par. (a)1. to 6. for each student teacher or person who works at the camp and is compensated from sources other than the camp.

(4) CHILDREN'S RECORDS FILES.

(a) The licensee shall maintain at the camp, a current written record for each child enrolled at the camp. The record shall be on file before the child's first day of attendance and updated annually. The licensee shall make the record available to the licensing representative. Each child's file shall include all of the following:

1. Pre-admission and enrollment information consisting of:

a. The name and birthdate of the child.

b. Names and contact information for the child's parents.

c. The child's home address and telephone number.

d. Address and telephone number where a parent can be reached while the child is in care.

e. Name, address, telephone number and relationship to the child of the person to be notified in an emergency, when a parent cannot be reached immediately.

f. Names, address and telephone number of the physician or medical facility caring for the child.

g. Names, addresses and telephone numbers of persons authorized to pick-up the child or to accept the child who is dropped off.

h. Dates of camp session in which the child is enrolled.

2. Consent from the parent for emergency medical care or treatment;

Note: The licensee may use either the department's form, Child Care Enrollment, or the licensee's own form to obtain consent of the child's parent for emergency medical treatment. Information on how to obtain forms is available from the department's website, <http://dcf.wisconsin.gov>, or any regional licensing office in Appendix A.

3. Authorization from the parent to transport the child to and from the camp, when transportation is provided;

Note: The licensee may use either the department's form, Transportation Permission — Child Care Centers, or the licensee's own form to obtain authorization to transport children to and from the camp. Information on how to obtain forms is available from the department's website, <http://dcf.wisconsin.gov>, or any regional licensing office in Appendix A.

4. Authorization from the parent for the child to participate in and be transported for field trips and other activities, if these are part of the camp program;

Note: The licensee may use either the department's form, Field Trip or Other Activity Permission / Notification — Child Care Centers, or the licensee's own form for securing parental information. The department's form, Child Care Enrollment, also contains an authorization from the parent to participate in field trips if the camp chooses to use that form. Information on how to obtain forms is available from the department's website, <http://dcf.wisconsin.gov>, or any regional licensing office in Appendix A.

5. Specific written informed consent from the parent for each incident of participation by a child in any research or testing project. The day camp shall obtain and make available to the department and to the parent a statement indicating the sponsor, the subject matter, the specific purpose and the proposed use of results with respect to each project;

Note: The licensee may use either the department's form, Informed Consent for Observation or Testing by an Outside Agency — Child Care Centers, or the licensee's own form for securing the parent's written consent. Information on how to obtain forms is available from the department's website, <http://dcf.wisconsin.gov>, or any regional licensing office in Appendix A.

6. The child's health history and any other matters relating to the child's health; on a form provided by the department.

Note: The department's form, Health History and Emergency Care Plan, is used for health history information. Information on how to obtain forms is available from the department's website, <http://dcf.wisconsin.gov>, or any regional licensing office in Appendix A.

7. Authorization from the parent outlining the plan for a child to come to the camp from school, home or other activities and to go from the camp to school, home or other activities unless the child is accompanied by a parent or other authorized pick-up person.

Note: The licensee may use either the department's form, Alternate Arrival/Release Agreement — Child Care Centers, or the licensee's own form for securing the parent's signed agreement. Information on how to obtain forms is available from the department's website, <http://dcf.wisconsin.gov>, or any regional licensing office in Appendix A.

8. Assessment of the child's swimming ability, if swimming is included in the program of activities.

Note: Either parents or the camp may assess the child's swimming ability.

(b)1. The licensee shall record in a medical log any medication dispensed to a child by a camp employee and any injury received by a child enrolled in the program on the day the medication is dispensed or the injury is received.

2. The medical log shall be a book with stitched binding and lined and numbered pages. Each entry shall be recorded in ink and signed or initialed by the person making the entry. The pages in the log may not be skipped or removed.

3. The log shall be maintained for the length of time the child is enrolled in the camp.

Note: See DCF 252.44(6)(a) 2. for information on recording entries in the center medical log book.

(c) The licensee shall maintain a current, accurate, written record of the daily attendance and birthdate for each child enrolled in the program. If the hours of arrival and departure of the children vary, the actual time of arrival and departure for each child shall be recorded. Each record shall be maintained as long as the child is enrolled in the program.

Note: The department form, Daily Attendance Record — Child Care, may be used to document a child's daily attendance. Information on how to obtain the department's form is available from the department's website, <http://dcf.wisconsin.gov>, or any regional licensing office in Appendix A.

252.41(5)**(5) NOTIFICATIONS TO PARENTS.**

(a) The camp director shall notify the parents of an enrolled child of all of the following:

1. Exposure of the child to a diagnosed or suspected communicable disease reportable under ch. DHS 145. Notification shall occur when the information becomes known to the camp director.
2. Illness or injury to the child that requires professional medical treatment. Notification shall occur immediately.
3. Minor injury to the child. Notification shall occur when a parent picks up a child or when the child is delivered.
4. When the child participates in a field trip. The camp shall provide parents with a current and accurate schedule of all the field trips prior to the trips. Changes in the schedule of trips shall be communicated to parents.
5. When a child is missing.

DCF 252.42 Personnel.**(1) STAFF: PAID AND VOLUNTEER.**

(a) Each day camp shall have a person designated as camp director on the premises at all times. If the camp director is not on the premises, a similarly qualified adult shall be present. The camp director shall be responsible for the administration of the camp, including program operations, staff supervision, business operations, food service, health service, and other supportive services.

(b) The camp director shall be at least 21 years of age and shall meet one of the following criteria:

1. Have at least 2 years of supervisory or administrative experience in an organized camp or children's program; or
2. Have a bachelor's degree in outdoor education, recreation, social work, psychology, child development or education or in another camp-related field.

(c) Counselors, whether paid or unpaid, who are counted in determining the counselor-to-child ratio shall be at least 18 years of age and have completed high school or the equivalent as determined by the department of public instruction.

(d) Counselors who are considered in determining counselor-to-child ratio may not provide care to children more than 10 hours in any 24-hour period. Camps providing an occasional overnight activity for children enrolled in the camp may allow a counselor to exceed the maximum 10-hour per day work schedule to permit the counselor to remain with the children during the overnight session.

(e) In the absence of a regular staff member, there shall be a similarly qualified substitute.

(2) STAFF TRAINING.

(a) Each day camp shall develop a written pre-camp training plan. A copy of the plan shall be submitted to the department for approval and implemented as approved. The plan shall include all of the following:

1. A review of the applicable parts of this chapter.
2. A review of camp policies and procedures are required under s. DCF 252.41(1)(f) and (g).
3. Job responsibilities in relation to job descriptions.
4. Training in the recognition of childhood illnesses and infectious disease control, including handwashing procedures and universal precautions for handling body fluids.

Note: A copy of the universal precautions may be obtained from the Child Care Information Center by calling 800-362-7353 or from the Occupational Health Section, Bureau of Public Health, Department of Health Services, 1 W. Wilson St. Madison, WI 53703.

5. Daily activity plans and schedules.
6. Emergency first aid.
7. Review of plans required under ss. DCF 252.41(1)(g) and 252.43(2) including the plan for what happens if a child is missing, fire and tornado plans and the supervised swim plan if applicable.
8. The procedure for ensuring that camp counselors know the children assigned to their care and their whereabouts at all times.
9. Training in the use of fire extinguishers and recognition of local poisonous plants, snakes and other potential hazards on the premises, and procedures to be followed to protect the children from these hazards.
10. Review of child abuse and neglect laws, and the camp reporting procedures.
11. Information on the care of children with disabilities enrolled in the camp and the procedure for sharing information related to a child's special health care needs including any physical, emotional, social or cognitive disabilities with any person who may be assigned to care for that child throughout the day.
12. Child management techniques.
13. Department-approved training in shaken baby syndrome prevention and appropriate ways to manage crying, fussing or distraught children for any person who will be providing care and supervision to children under 5 years of age.

(b) All counselors, whether paid or unpaid, who are counted in determining the counselor-to-child ratio shall have pre-camp training. The pre-camp training shall be for a minimum of 24 hours and shall include orientation at the base camp.

252.42(2)(c)

(c) Campers' parents serving as counselors and volunteers who are not used to meet the counselor-to-child ratio, may be exempted from the 24 hour pre-camp training if the following conditions are met:

1. The parent or volunteer receives at least 4 hours of training in day camp programming required under par. (a), including orientation at the base camp.
2. The parent or volunteer works under the supervision of a counselor who has met the training requirements specified in par. (b).

(d) The camp director shall plan and implement monthly staff meetings which will provide ongoing supervision and in-service training for the staff.

(e) All camp staff in regular contact with the children, including the camp director and counselors shall obtain and maintain a current certificate of completion for child and adult cardiopulmonary resuscitation (CPR) including department-approved training in the use of an automatic external defibrillator prior to working with children. The CPR training may be included in pre-camp training.

(f) The camp director shall coordinate the volunteer program and keep on file documentation of the hours worked for volunteers who are included in determining the counselor-to-child ratio.

(g) Camp staff, including the camp director, camp counselors, and volunteers counted in the counselor-to-child ratio shall be physically, mentally and emotionally able to provide responsible care for children.

(3) STAFFING AND SUPERVISION

(a) Each child shall be closely supervised at all times to guide the child's behavior and activities, prevent harm and assure safety.

(b) The ratio of counselors to children may not be less than the minimum number of counselors to children specified in Table DCF 252.42.. When there is a mixed-age group, the counselor-to-child ratio shall be adjusted on a prorata basis, according to age.

Note: The department's form, Counselor-to-Child Ratio Worksheet may be used to prorate the staff-to-child ratio for mixed age groups. The department form is available from any of the regional licensing offices in Appendix A or from the department's website, <http://dcf.wisconsin.gov>.

TABLE DCF 252.42 COUNSELOR-TO-CHILD RATIO FOR CHILDREN IN A DAY CAMP	
Age of Children	Minimum Number of Counselors to Children
3 Years to 4 Years	1:4
4 Years to 5 Years	1:6
5 Years and 6 Years	1:12
7 Years and Over	1:18

(c) Support staff, such as maintenance, clerical, housekeeping and food service staff, may only be considered in determining counselor-to-child ratios under the following circumstances:

1. During those hours when the support staff give full attention to the care and supervision of children.
2. If the support staff meet the qualifications of a camp counselor.

(d) The camp director shall be at the camp during the hours of operation, unless the children are on a field trip in which case the camp director shall accompany the children. When some of the children are on a field trip and others are at the base camp, the camp director may accompany the children on the field trip if there is a reliable method of communicating easily with the camp. If the camp director is not present either at the base camp or on a field trip, another qualified person shall be identified in a written delegation of administrative authority, present at the camp and authorized to make decisions for the camp.

(e) When 9 or more children are present at the camp, there shall be at least 2 adults available at all times and at least one of the adults shall be a counselor.

(f) When children 7 years of age and older are served in the same group with children ages 3 and 4, the ratio of counselors to children in the group shall be consistent with the requirements for the youngest children in the group as specified in Table DCF 252.42.

(g) All children in care shall be assigned to a counselor. The camp shall implement a procedure to ensure that the number, names, and whereabouts of children in care are known to the assigned camp counselor at all times.

(h) A child may not be released to any person who has not been previously authorized by the parent.

(i) Camp counselors shall not engage in any duties that are not related to caring for children when they are counted in meeting the counselor-to-child ratios.

(j) Children of staff who attend the camp and who are on the premises for supervision and care shall be included in determining counselor-to-child ratios.

(k) When 9 or more children are on a field trip at least 2 adults shall accompany the children. The counselor-to-child ratios in Table DCF 252.42 shall be met on field trips.

(4) HEALTH.

(a) No licensee, employee, volunteer, visitor or parent with symptoms of communicable disease, reportable under ch. DHS 145, or serious illness, which presents a safety or health risk to children may be in contact with the children in care.

(b)1. No licensee, employee, volunteer, visitor, or parent whose behavior gives reasonable concern for the safety of the children may be in contact with the children in care.

2. The department may require a licensee, employee or other person in contact with the children in care, whose behavior gives reasonable concern for the safety of children, to submit to an examination by a licensed mental health professional as a condition of licensure or employment.

(c) No person with a health history of typhoid, paratyphoid, dysentery or other diarrheal disease may work in a camp until it is determined by appropriate tests that the person is not a carrier of the disease.

DCF 252.43 Base camp and facilities.**(1) SITE AND BUILDING.**

(a) The licensee shall identify a base camp that provides an environment that allows the program to be oriented to the out-of-doors. The base camp shall be maintained in a clean and sanitary condition at all times.

(b) The base camp shall have a building or shelter for use by the camp during inclement weather. If the shelter is not enclosed, the camp shall implement a procedure for ensuring that children are protected from the elements.

(c) The base camp shall be located on a well-drained site not subject to flooding. The premises shall be properly graded to prevent the accumulation of storm or other waters that may create hazards to the property or to the health or safety of the occupants. No camp may be located in an area that is situated so that drainage for any source of filth, such as garbage or animal waste disposal, can be deposited on the site.

Note: Local authorities should be consulted to obtain any required zoning clearances or building permits. Chapter NR 115 and s. NR 116.12(2)(b) may affect the camp's location with regard to flood plains and shore land areas.

(d) Buildings and shelters on sites used or constructed primarily for day camp purposes shall comply with the applicable Wisconsin Commercial Building Code and applicable local ordinances. A copy of the building inspection report shall be on file with the department.

Note: Inspections can be obtained from a commercial building inspector certified by the Department of Safety and Professional Services in accordance with chapter SPS 305, "Licenses, Certifications, and Registration," or a Wisconsin architect registered in accordance with chapter A-E 3, Architect Registration, or a Wisconsin engineer registered in accordance with chapter A-E 4, Professional Engineer Registration. Local authorities should be consulted to obtain any required zoning clearances or building permits.

(e) All buildings and structures used by children for day camp purposes shall have not less than 2 plainly marked exits that are free of obstruction.

(f) The department shall be given written notice of proposed construction, remodeling of existing space or change in rooms to be used by children prior to the initiation of the changes.

Note: Alterations or changes of use to commercial buildings may require submittal of plans to and approval by the department of safety and professional services or its agent prior to the commencement of construction. For information on plan submittal, please see the department of safety and professional services website at <http://dsp-s.wi.gov/SB/SB-DivPlanReview.html>.

(g) If the base camp includes an enclosed building used by children, the inside temperature of the building may not be less than 67 degrees Fahrenheit. If the inside temperature exceeds 80 degrees Fahrenheit, the licensee shall provide for air circulation with fans or by other means.

(2) SAFETY.**(a) Protective measures.**

1. Each camp shall have a written plan for dealing with emergency situations, including but not limited to fire, natural disaster, lost campers, lost swimmers, accident and illness.

2. Staff shall be informed of and knowledgeable about the following:

- a. His or her duties in the event of an emergency;
- b. Evacuation routes; and

3. All equipment and facilities used by the children and staff, whether or not it is owned by the camp, shall be in safe operating condition and shall not present undue risk to children.

4. A licensee, employee, volunteer or other individual in contact with children may not consume alcoholic beverages or any non-prescribed controlled substances specified in ch. 961, Stats., on the premises of the camp or be under the influence of any alcohol or non-prescribed controlled substance, during the hours of the camp's operation.

5. Children shall be protected from indoor and outdoor hazards and the premises shall be maintained in a clean, neat condition and free from refuse, insects and rodents.

6. Substances which may be toxic if ingested, inhaled, or handled, including drugs, chemicals and pesticides, shall be stored in the original, covered and labeled container and shall be stored in areas not accessible to children.

7. A motor vehicle shall be immediately available at the camp in case of emergency if a public or private rescue or emergency vehicle cannot arrive at the camp within 10 minutes of a phone call.

8. Smoking is prohibited anywhere on the premises when children are present.

252.43(2)(a)9.

9. The camp shall have a working telephone at the camp during the hours of operation. A list of emergency telephone numbers, including fire, law enforcement and poison control shall be immediately available to staff. In this paragraph, "telephone" does not include a pay telephone requiring payment to reach the operator or a telephone in a locked room.

(b) Fire protection.

1. All fire protection facilities and equipment, including fire extinguishers, shall be operable and maintained in working order by a qualified person. Fire extinguishers shall be inspected once per year by a qualified person, and bear a label indicating its present condition and the date of the last inspection.

2. Flammable and combustible liquids shall be in original, covered and labeled containers and stored in areas accessible only to designated adults.

3. Before camp opens, written notification of the camp operation shall be given to the nearest fire department or forest ranger service for protection in case of fire. The notification shall include the dates the camp will be operational and the number and ages of children in care.

4. Any necessary permits required for operation of incinerators or for open fires shall be secured and available for review by the licensing representative.

Note: It is recommended that the licensee contact the local municipality and the department of natural resources prior to camp opening to determine what permits are required.

5. The clearing around open fires shall be free of burnable materials for a radius of 6 feet.

(3) SANITATION.*(a) General.*

1. The base camp premises and any structures used by children on the premises shall be free of litter, safe, well maintained, in good repair and clean.

2. Furnishings, toys and other equipment shall be safe, in good repair and clean.

3. Toilet facilities shall be in sanitary condition.

4. Painted exterior and interior surfaces accessible to children shall be free of flaking or deteriorating paint and finished with lead-free paint or other non-toxic material.

5. Garbage and refuse at the base camp shall be kept in rigid, watertight and leak-proof containers with tight-fitting covers and disposed of as necessary to prevent decomposition and overflow.

6. The areas around garbage and rubbish containers shall be clean and dry.

7. Solid waste disposal sites on the premises must be licensed by the department of natural resources.

(b) Insect, rodent, and weed control.

1. The growth of brush, weeds, grass and plants shall be controlled in the base camp area to prevent the harborage of noxious insects, rodents, and any other animals.

2. The base camp area shall be maintained to prevent growth of ragweed, poison ivy and other noxious plants considered detrimental to health.

3. Buildings and structures shall be maintained to control insect and rodent harborage and infestations. Chemical insect and rodent control measures shall be applied according to label instructions. Control measures shall be used in a safe manner.

(c) Food preparation, service and storage.

1. The kitchen area shall be equipped with a microwave or stove, a refrigerator, a sink and utensils that are necessary to prepare and serve meals.

2. All equipment and utensils used for preparing, serving or storing food shall have smooth hard surfaces, be easily cleanable, in good repair, durable, non-toxic and free of cracks, seams, chips, and roughened areas, and shall be maintained in a clean and sanitary condition.

4. Single-service utensils and food containers shall be made from non-toxic materials and shall not be reused.

5. Foods shall be stored at temperatures which protect against spoilage. Milk shall be maintained at or below 40 degrees Fahrenheit.

6. Food shall be protected from potential contamination and adulteration, including dirt, insects, rodents or animals. Dry foods, such as cereals, crackers and pasta shall be stored in bags with zip-type closures or metal, glass or food-grade plastic containers with tight-fitting covers and shall be labeled. In this paragraph, "food-grade plastic" means any plastic material used in the manufacture of dishes or utensils which has been found not harmful to human health by the national sanitation foundation.

252.43(3)(c)7.

7. Raw fruits and vegetables shall be washed before being served or cooked.

8. Meals shall be prepared at the base camp, in a central kitchen operated by the camp or in another location that has been inspected by a representative of a state agency. Food delivery vehicles shall be equipped with clean containers, or cabinets to store food while in transit. Containers for cold food shall be capable of maintaining the temperature at or below 40 degrees Fahrenheit and containers for hot food shall be capable of maintaining the temperature at or above 140 degrees Fahrenheit.

Note: Chapter ATCP 75, subch. III, of the administrative rules addresses restaurants and other public eating establishments. Chapter ATCP 75, subch. II, of the administrative rules addresses retail food establishments.

(d) Water.

1. A supply of safe drinking water shall be available to children at all times from disposable cups, covered water bottles labeled with the child's name, or angle jet type drinking fountains. Common use of drinking cups is prohibited.

Note: It is recommended that single-use disposable water bottles not be reused.

2. When a public water system is not available, a private well may be used if it is approved by the department of natural resources. Water samples from an approved well shall be tested for lead and bacteria by a laboratory certified under ch. ATCP 77 annually and at least 2 weeks prior to the camp opening. The water supply shall be bacteriologically safe. The laboratory report shall be available to the department upon request.

2m. If the water test results indicate the water is bacteriologically unsafe, the water shall be appropriately treated and re-tested until it is determined to be safe. Bottled water shall be used on a temporary basis until the water is determined to be safe.

Note: Camps using a private well that serves at least 25 of the same people over 6 months of the year are considered to have a non-transient non-community water system (NTNC) and must be in compliance with Chapter NR 809, Safe Drinking Water Act Standards. Contact the nearest department of natural resources office from the list at <http://dnr.wi.gov/org/caer/cs/ServiceCenter/locations.htm>.

3. Where running water is not available, a covered drinking water container that is easily distinguishable from other containers, constructed of a food grade material that does not permit the water to become contaminated by dirt, insects, or animals, and suitable for pouring or equipped with a faucet shall be provided. Dipping into water from the container is prohibited. The container shall be cleaned and sanitized daily. The water source shall be a public water supply or as specified in subd. 2.

(e) Washrooms and toilet facilities.

1. Handwashing and toileting facilities shall be provided and accessible to children.

2. Single-use disposable towels shall be provided and accessible to children.

3. Soap, toilet paper and wastepaper container shall be provided and accessible to children.

4. Outdoor toilets, when used, shall be constructed according to the requirements of the applicable Wisconsin commercial building codes and maintained in good repair.

Note: Ch. Comm 9 was repealed eff. 3-1-08.

5. If devices other than plumbed toilets or outdoor toilets are used, they shall be subject to local ordinances and required permits shall be obtained.

6. Plumbing shall comply with all applicable sections of Wisconsin plumbing codes.

7. Liquid waste disposal shall be connected to a public sewer, if available. If not available, liquid waste disposal shall be in accordance with chs. SPS 382, 383 and 384.

DCF 252.44 Program.**(1) PROGRAM PLANNING AND IMPLEMENTATION.**

(a) Each day camp shall have a program of activities that shall be planned according to the developmental level of each child and each group of children and intended to expose children to a variety of cultures. The needs of children with disabilities shall be considered when planning the programming and activities for enrolled children. The program of activities shall focus on the out-of-doors and the natural environment and shall reflect the camp's written policies. The program shall provide each child with experiences which will promote all of the following:

1. An appreciation and understanding of the natural environment.
2. Large and small muscle development.
3. Intellectual growth.
4. Self-esteem and positive self-image.
5. Opportunities for recreation.
6. Social interaction.
7. Creative expression.
8. Self-expression and communication skills.
9. Literacy skills.

Note: With parental consent and consultation, it is recommended that centers who care for children who have an Individualized Family Service Plan (IFSP) or an Individualized Education Program (IEP) coordinate programming activities with the local school district or Birth to Three agency.

(b) The program shall:

1. Protect the children from excessive fatigue and from overstimulation.
2. Encourage spontaneous activities.
3. Be planned to provide a flexible balance each day of:
 - a. Active and quiet activities.
 - b. Individual and group activities.
4. Provide daily opportunities for children to play outdoors except during inclement weather or when not advisable for health reasons.
5. Provide reasonable regularity in eating, resting and other routines.
6. Provide daily periods when a variety of experiences are concurrently available for the children to select their own activities.
7. Limit the amount of time that children are kept waiting in lines or assembled in large groups during routines such as toileting and eating and intervals between activities.

(2) CHILD GUIDANCE.

(a) Each day camp shall have a written policy on guiding children's behavior which provides for positive guidance, redirection and the setting of clear-cut limits. The policy shall be designed to help each child develop self-control, self-esteem, and respect for the rights of others.

(b) If a camp uses time-out periods to deal with unacceptable behavior, time-out periods may not exceed 5 minutes and the procedure shall be included in the camp's child guidance policy as specified in par. (a).

(c) Actions that may be psychologically, emotionally or physically painful, discomfoting, dangerous or potentially injurious are prohibited. Examples of prohibited actions include:

1. Spanking, hitting, pinching, shaking, slapping, twisting, throwing or inflicting any other form of corporal punishment.
 2. Verbal abuse, threats or derogatory remarks about the child or the child's family.
 3. Physical restraint, binding or tying to restrict movement or enclosing in a confined space such as a closet, locked room, box or similar cubicle.
 4. Withholding or forcing meals, snacks or naps.
 5. Actions that are aversive, cruel, frightening or humiliating.
- (d) Children shall not be punished for lapses in toilet training.

252.44(3)**(3) EQUIPMENT.**

(a) The camp shall provide program equipment in a variety and quantity which will allow staff to implement activities outlined in the written policy on program objectives and activities required under s. DCF 252.41(1)(g)2. and which meets the following criteria:

1. Provides for large muscle development.
2. Provides construction activities and for the development of manipulative skills.
3. Encourages social interaction.
4. Provides intellectual stimulation.
5. Encourages creative expression.

(b) All equipment shall be:

1. Scaled to the developmental level, size and ability of the children.
2. Of sound construction with no sharp, rough, loose or pointed edges, in good operating condition, and anchored when necessary.
3. Placed to avoid danger of accident and collision and to permit freedom of action.

(c) Equipment and materials which reflect an awareness of cultural and ethnic diversity shall be provided.

(d) Children using play equipment shall be closely supervised to prevent injuries.

(4) REST. When a session is more than 4 hours in length, there shall be a rest period or period of quiet activities of at least 30 minutes for all children under 5 years of age.

(5) FOOD.

(a) Food shall be provided in accordance with Table DCF 252.44 which is based on the amount of time children are present. Food may be served at flexible intervals, but no child may go without nourishment for longer than 3 hours.

TABLE 252.44 MEAL AND SNACK REQUIREMENTS FOR EACH CHILD AT A DAY CAMP	
Time Children Are Present	Number of Meals and Snacks
2½ to 4 hours	1 snack
4 to 8 hours	1 snacks and 1 meal
8 to 10 hours	2 snacks and 1 meal
10 hours or more	2 meals and 2 or 3 snacks

(b) Camp-provided transportation time shall be included in determining the total number of hours a child is present for the purpose of par. (a).

(c) Food allergies of specific children shall be reported to cooks, counselors and substitutes having direct contact with children.

(d) Menus for meals and snacks provided by the camp shall:

1. Be posted in the kitchen and in a conspicuous place accessible to parents.
2. Be planned at least one week in advance, dated and kept on file for 3 months.
3. Be available for review by the department.
4. Include diverse types of food.

(e) Each meal and snack provided shall meet the U.S. department of agriculture child care food program minimum meal requirements.

Note: See Appendix B for information on the U.S. department of agriculture child and adult care food program minimum meal requirements.

(f) Enough food shall be prepared for each meal so that second portions of vegetables or fruit, bread and milk are available to children.

(g) A special diet, based on a medical condition, excluding food allergies, but including nutrient concentrates and supplements, may be served only upon written instruction of a child's physician and upon request of the parent. A special diet based on a food allergy may be served upon the written request of the parent.

(h) Children's hands shall be washed with soap and water before eating.

(6) HEALTH.**(a) Observation.**

1. Each child upon arrival at the camp shall be observed by a staff person for symptoms of illness. For an apparently ill child, the procedure under par. (c) shall be followed.
2. Any evidence of unusual bruises, contusions, lacerations or burns received by a child in or out of camp care shall be recorded in the camp medical log book and reported immediately to the camp director.

(b) Health supervision. There shall be an adult at the camp at all times who is responsible for health supervision. The on-site health supervisor shall be one of the following:

1. A physician licensed in Wisconsin.
2. A registered nurse or practical nurse licensed in Wisconsin.
3. A physician assistant licensed in Wisconsin.
4. An emergency medical technician.
5. A person currently certified as having completed the American Red Cross Standard First Aid course or equivalent.

(bm) If a public or private rescue or emergency vehicle cannot arrive at the camp within 10 minutes of a phone call, a person who is certified by the department as a first responder under ch. DHS 110 must be on the premises during the hours when children are present. This person may serve as the camp health supervisor.

(c) Isolation.

1. There shall be an isolation or first aid area for the care of children who become ill. If the area is not a separate room, it shall be separated from space used by other children by a partition, screen or other means.
2. When an apparently ill child is observed in the day camp, the following procedures shall apply:
 - a. A child with symptoms of illness or a condition such as vomiting or diarrhea, shall be isolated and shall be made comfortable, with a place to lie down available, with a staff member within the sight or hearing of the child. Isolation shall be used until the child can be removed from the camp.
 - b. The child's parent, or a designated responsible person when parents cannot be reached, shall be contacted as soon as possible after the illness is discovered to take the child from the camp.

(d) Communicable disease.

1. When it is determined that a person in contact with children or a child enrolled in a day camp has a reportable communicable disease under ch. DHS 145, such as German measles, infectious hepatitis, measles, mumps, or meningitis, the local public health officer, the department, and parents of exposed children shall be notified.
3. A person in contact with children or a child may be allowed to return to a camp if the person's physician provides a written statement that the condition is no longer contagious or the person has been absent for a period of time equal to the longest usual incubation period of the disease as specified by the department.

Note: The Division of Public Health in the Wisconsin Department of Health Services has developed materials that identify those communicable diseases that are required to be reported to the local public health officer. These materials also provide additional guidance on the symptoms of each disease and information on how long an infected child must be excluded from the camp. The materials include a communicable disease chart and exclusion guidelines for child care centers. Copies of the communicable disease chart or the exclusion guidelines are available from the Child Care Information Center, 2109 S. Stoughton Rd., Madison WI 53716; phone 1-800-362-7353.

(e) Medication.

1. Camp staff may give prescription and non-prescription medication to a child only under the following conditions:
 - a. A signed, dated, written authorization that includes the child's name and birthdate, name of the medication, administration instructions, medication intervals, and the length of the authorization from the parent is on file. Blanket authorizations that exceed the length of time specified on the label are prohibited.

Note: The department's form, Authorization to Administer Medication, or the provider's own form may be used to obtain the parent's authorization to administer medication. Information on how to obtain the form is available on the department's website, <http://dcf.wisconsin.gov>, or from any of the regional licensing offices in Appendix A.

- b. The medication is in the original container and labeled with the child's name, and the label includes the dosage and directions for administering.
 - d. The person administering the medication makes an entry into the medical log book as required under s. DCF 252.41(4)(b) that includes the type of medication given, dosage, time, date of administration and name or initials of the person administering the medication.

252.44(6)(e)2.

2. All medications shall be stored so that they are not accessible to the children.
3. Medications shall be stored at the appropriate temperature as indicated on the label.
4. No medication may be kept at the camp without a current authorization from the parent.
5. Bee sting medication, inhalers, an insulin syringe, or other medication or device used in the event of a life-threatening situation may be carried by a child over the age of 7 years with written authorization from the parent and the child's physician.
6. Sunscreen and insect repellent may only be applied on the written authorization of the parent. The authorization shall include the ingredient strength of the sunscreen or repellent. If parents provide the sunscreen or insect repellent, the sunscreen or repellent shall be labeled with the child's name. Children may apply their own sunscreen or insect repellent with written parental authorization. The recording of the application of sunscreen or insect repellent is not required.

7. Children shall be protected from sunburn with protective clothing, if not protected by sunscreen.

(f) Injury.

1. Written procedures for the treatment of children who are in accidents or otherwise injured shall be available and made known to staff and shall be carried out as follows:
 - a. Written permission from the parent to call the family physician or refer the child or medical care in case of emergency shall be on file at the camp. This permission shall be used only when the parent or the designated responsible person cannot be reached.

Note: The camp may use the department's form, Child Care Enrollment, or its own form for obtaining medical consent from the parent. Information on how to obtain forms is available on the department's website, <http://dcf.wisconsin.gov>, or from any regional licensing office in Appendix A.

 - b. Prior to the opening of camp, a planned source of emergency medical care, such as a hospital emergency room, clinic or other constantly staffed medical facility, shall be designated and made known to staff and parents.
 - c. There shall be written procedures to be followed for bringing a child to emergency medical care.
 - d. First aid equipment shall be available at a designated location at the base camp.
 - f. Standard first aid procedures shall be followed for injuries.
 - h. Superficial wounds may be cleaned with soap and water only and protected.
 - i. Suspected poisoning shall be treated only after consultation with a poison control center.
2. A daily record of injuries shall be kept in the medical log. Records of injuries shall be reviewed monthly by the camp director and staff to ensure that all preventive measures are being taken. There shall be documentation in the medical log book required under s. DCF 252.41(4)(b) that reviews have taken place.

(g) Health history. A written health history on a form prescribed by the department shall be obtained from the parent before the child's first day of camp. This shall be kept on file at the base camp and be available to staff. Information contained on the health history form shall be shared with any person assigned to care for the child.

Note: The department's form, Health History and Emergency Care Plan, is used to record a child's health history. Information on how to obtain forms is available from the department's web site, <http://dcf.wisconsin.gov>, or from any regional office listed in Appendix A.

(h) The camp shall maintain a record of immunizations for each child to document compliance with s. 252.04, Stats., and ch. DHS 144.

Note: The form, Day Care Immunization Record, may be used to record immunization information. An electronic printout from the Wisconsin Immunization Registry or other registry maintained by a health care provider may be used in place of the Day Care Immunization Record. Information on how to obtain forms is available from the department's web site, <http://dcf.wisconsin.gov>, or from any regional office listed in Appendix A.

(i) Personal cleanliness.

1. A child's hands shall be washed with soap and running water before and after meals and snacks and after toileting or diapering.
2. Persons working with children shall wash their hands with soap and running water before handling food, after assisting with toileting and after wiping bodily secretions from a child.
3. Soap and water-based wet wipes may be used to wash hands when there is no running water immediately available. Disinfecting hand sanitizers may not replace the use of soap and water when washing hands.
4. Cups, eating utensils, toothbrushes, combs and towels may not be shared and shall be kept in a sanitary condition.

5. Wet or soiled clothing and diapers shall be changed promptly from an available supply of clean clothing.
6. There shall be a supply of dry and clean clothing and diapers sufficient to meet the needs of all children at the camp.
 - (j) *Diapering*. When children are diapered, the camp counselor shall do all of the following:
 1. Consult with the child's parent to develop a toilet training plan so that a child's toilet routine is consistent between the camp and the child's home, if the child is in the process of becoming toilet trained.
 2. Change wet or soiled diapers and clothing promptly.
 3. Change each child on an easily cleanable surface which is cleaned with soap and water and a disinfectant solution after each use with a chlorine bleach solution of one tablespoon bleach to one quart of water, made fresh daily or a quaternary ammonia product prepared according the manufacturer's recommendation.
 4. If the diapering surface is above floor level, provide a barrier or restraint to prevent falling. A child may not be left unattended on the diapering surface.
 5. Place disposable soiled diapers and gloves, if used, in a plastic-lined, hands-free, covered container immediately.
 6. Remove soiled diapers from containers as needed but at least daily for washing or disposal. Containers shall be washed and disinfected daily.
 7. Apply lotions, powders or salves to a child during diapering only at the specific written direction of the parent or the child's physician. The directions shall be posted in the diapering area. The application of diapering lotions, powders or salves is not required to be recorded in the camp medical log.
 8. Wash the child's diaper area before each diapering with a disposable or fabric towel used only once.

(7) WATER ACTIVITY AREA.

- (a) *Definitions*. In this subsection, "waterfront" means a pool or beach accessible to or used by children in care.
 - (am) *Swimming area*.
 1. Pools and other swimming areas used by children shall be located, constructed, equipped and operated according to the requirements of chs. SPS 390 and ATCP 76 for pools and water attractions. A beach shall be in compliance with applicable local ordinances.
 - 2.a. Swimming pools shall be enclosed with a 5 foot fence with a self-closing, self-latching door. Spaces between the vertical posts of the fence shall be 3½ inches or less. In addition, all of the following restrictions apply when the pool is not in use by children.
 - b. If access to the pool is through a gate, the gate shall be closed and locked.
 - c. If access to the pool is through a door, the door shall be closed, visibly locked and equipped with an alarm at the door that signals when someone has entered the pool area. The door may not be used as an exit.
 - d. Locks shall be located so that the locks cannot be opened by children.
 - e. The free-standing wall of an above ground pool may not serve as an enclosure unless it is at least 5 feet in height and not climbable. If a ladder is present, the ladder shall be removed or raised up so that it is inaccessible to children.
 - f. The area around the pool enclosure shall be free of toys or equipment that would allow a child to climb or otherwise gain access to the pool.
 3. The swimming area used by a day camp shall have designated areas for non-swimmers, intermediate swimmers, advanced swimmers and divers. A child shall be restricted to the area of the pool or beach that is within the child's swimming ability.
 4. Access to a water activity area or beach shall be controlled so that children may not enter the area without the knowledge of waterfront staff and any area used for swimming shall be clearly marked.
 5. Water activity areas shall be free of hazards. Equipment in water activity areas, including but not limited to docks, ladders, rafts, diving boards, boats, life jackets and paddles, shall be maintained and in good repair.
 6. Rescue equipment, including a shepherd's crook type pole, a backboard, ring buoy, and rescue tube shall be maintained and immediately available at each water activity area as specified in s. ATCP 76.26.

252.44(7)(b)*(b) Waterfront supervisor.*

1. Each day camp offering swimming, boating, canoeing, or other water activities whether at a pool or a beach shall designate a staff person as waterfront supervisor. All water activities, whether on or off the premises, shall be under the direction of the waterfront supervisor or an equally qualified adult who is present at the waterfront during water activities. The waterfront supervisor shall:

- a. Be 18 years of age or older; and
- b. Hold a current certification as a life-guard from a nationally recognized certifying agency.

2. The camp shall maintain a ratio of one person with a current Red Cross lifesaving certificate per 25 children in the water, except where a public swimming place has life-saving personnel on duty. While children are in the water, staff-to-child ratios under s. DCF 252.42(3)(b) shall be maintained by staff who can swim.

3. The waterfront director or an equally qualified person shall be on duty at all times whenever children are in the water.

4. The waterfront supervisor shall establish and enforce a method for supervising children in the water such as the buddy system, the colored cap system or another method of supervising children. The supervision plan shall be included in the camp's written waterfront plan and reviewed during pre-camp training.

5. The waterfront supervisor shall establish and enforce a method for checking persons in and out of the water. The check-in and check-out procedures shall be included in the camp's written waterfront plan and reviewed during pre-camp training.

6. The waterfront supervisor or person acting as the waterfront supervisor may not be included in the staff-to-child ratios during any period when children are in the water.

(c) Swimming procedures.

1. The swimming ability of each child shall be assessed by either the parent or the camp. Documentation of the assessment shall be kept in the child's file.

2. Children shall be restricted to swimming areas within their swimming classification.

(d) Boating prohibited in swimming areas. Except in an emergency, no rowboat, canoe, motor boat or other craft, except a lifeboat used by lifeguards, is permitted in a swimming area, pursuant to s. 30.68(7), Stats.

(e) Supervision of waterfront activities. Children shall be closely supervised when they have access to a beach or they are participating in fishing or other shoreline activities.

(8) BOATS.

(a) In this section, "boat" means every description of watercraft used or capable of being used as a means of transportation on water, including canoes, kayaks, large inner tubes, inflatable boats and sailboards. Small inflatable toys such as swim rings and air mattresses are not considered "boats" under this definition.

(am) All boats shall comply with ch. NR 5.

(b) Each occupant of a boat shall wear a type I or II coast guard-approved personal flotation device which is appropriate to the weight of the person wearing it as specified in s. 30.62(3)(a), Stats., and s. NR 5.13.

(c) There shall be at least one adult in each boat who is a competent swimmer as determined by the waterfront supervisor. When children are using single-seat boats, such as kayaks, a counselor who is a competent swimmer shall be close enough to the children to provide assistance if necessary.

(d) Children who have not demonstrated advanced swimming skills shall be limited to the use of the rowboats only.

(e) All boats, oars and paddles shall be in good repair and inspected annually for safety.

(9) FIREARMS AND ARCHERY. Firearms and archery equipment may not be used by children under 7 years of age. When firearms and archery equipment are used by children over age 7, the following precautions shall be observed:

(a) The archery or shooting range may be used only under the supervision of a trained adult instructor.

(b) Other program activities shall be in an area away from the designated archery or shooting range. The range shall be fenced in with rope or wire and marked with danger signs or flags.

(c) Firearms, ammunition, and archery equipment shall be stored under lock and key when not in use.

(d) Children shall be closely supervised to ensure that all firearms, ammunition and archery equipment is used in a safe manner and to ensure that all unused ammunition is returned to the instructor.

(10) TOOLS.

- (a) Power tools shall not be used by children under 7 years of age.
- (b) Children under 7 years of age shall not be allowed in areas where power tools are in use.
- (c) When power tools and other tools are not in use, they shall be stored in an area not accessible to children.

(11) HORSEBACK RIDING.

- (a) This subsection shall apply whether the camp owns, rents, or leases horses.
- (b) Children may ride horseback only under close supervision in a ring or other enclosed area.
- (c) The riding tack shall be maintained in good repair to provide maximum safety for children. It shall be appropriate to the age, size, and ability of the rider.
- (d) Horseback riding shall be specifically covered by the camp's liability insurance.

(12) FIELD TRIPS. For field trips away from the base camp:

- (a) Staff shall carry emergency contact information and signed parental permission for the emergency medical care of all children on the field trip.
- (b) The counselor-to-child ratio under Table DCF 252.42 shall be maintained, except that the number of adults accompanying children away from the base camp shall be no fewer than 2.
- (c) A planned source of emergency medical care in the area to be visited shall be known to staff.
- (d) A list of children participating in the field trip shall be maintained by the camp director and a counselor accompanying the children.
- (e) Parents shall be notified in advance of the times and location of each field trip.
- (f) First aid supplies shall be taken on all field trips.

(13) ADVENTURE-BASED ACTIVITIES.

- (a) This subsection applies whether the camp owns, rents, or leases equipment used in adventure-based activities. Adventure-based activities include but are not limited to experiences such as ropes or challenge courses, hiking and rock climbing.
- (b) The licensee shall ensure that personnel leading and providing training to children are trained and have experience for the type of adventure-based experience they are supervising.
- (c) Equipment used in adventure-based activities shall be properly installed, maintained in good condition and working order and appropriate to the size, developmental and ability level of the children using the equipment.
- (d) Before a child is permitted to participate in an adventure-based activity, the licensee shall ensure that the child's medical history does not prohibit participation in the type of activity planned. If there is a question about a child's ability to participate for medical reasons, the licensee shall not permit participation without the written approval of the child's physician and written authorization from the child's parent.
- (e) Counselor-to-child ratios shall be adequate to manage and supervise the adventure-based activity based upon the number of children participating and type of activity. However, at no time, shall the counselor-to-child ratio be less than that specified in Table DCF 252.42.

Subchapter II — Day Care Programs Established by School Boards**DCF 252.50 Definition.**

In this subchapter, “establish and provide” means to fund the day care program and to control the daily operation of the program.

DCF 252.51 Compliance with licensing standards.

(1) A day care program established and provided by a school board shall comply with applicable standards under subch. I or ch. DCF 250 or 251 governing the operation of day care centers.

(2) The department shall inspect the day care program established and provided by a school board and document in writing for the school board whether or not the day care program complies with the applicable standards for day care centers under this chapter.

APPENDIX A**REGIONAL OFFICES OF THE DIVISION OF EARLY CARE AND EDUCATION**

The Department of Children and Families licenses child care centers through five Division of Early Care and Education regional offices. Below are addresses and phone numbers of the regional offices and related counties.

REGIONS	COUNTIES
<p>Northeastern Regional Office 200 North Jefferson, Suite 411 Green Bay, WI 54301 Gen: (920) 448-5312 Fax: (920) 448-5306</p>	<p>Brown, Calumet, Door, Fond du Lac, Green Lake, Kewaunee, Manitowoc, Marinette, Marquette, Menominee, Oconto, Outagamie, Ozaukee, Shawano, Sheboygan, Washington, Waupaca, Waushara, Winnebago</p>
<p>Northern Regional Office 2187 North Stevens Street, Suite C Rhinelander, WI 54501 Gen: (715) 365-2500 Fax: (715) 365-2517</p>	<p>Ashland, Bayfield, Florence, Forest, Iron, Langlade, Lincoln, Marathon, Oneida, Portage, Price, Sawyer, Taylor, Vilas, Wood</p>
<p>Southeastern Regional Office 141 NW Barstow, Room 104 Waukesha, WI 53188-3789 Gen: (262) 521-5100 Fax: (262) 521-5314</p>	<p>Kenosha, Milwaukee, Racine, Waukesha</p>
<p>Southern Regional Office 1 West Wilson Street, Room 655 P.O. Box 8947 Madison, WI 53708-8947 Gen: (608) 266-2900 Fax: (608) 261-7824</p>	<p>Adams, Columbia, Crawford, Dane, Dodge, Grant, Green, Iowa, Jefferson, Juneau, Lafayette, Richland, Rock, Sauk, Walworth</p>
<p>Western Regional Office 610 Gibson Street, Suite 2 Eau Claire, WI 54701-3696 Gen: (715) 836-2185 Fax: (715) 836-2516</p>	<p>Barron, Buffalo, Burnett, Chippewa, Clark, Douglas, Dunn, Eau Claire, Jackson, LaCrosse, Monroe, Pepin, Pierce, Polk, Rusk, St. Croix, Trempealeau, Vernon, Washburn</p>

DEPARTMENT OF CHILDREN AND FAMILIES
APPENDIX B
CACFP MEAL PATTERN REQUIREMENTS — AGES 3 TO 12

The meal pattern shall contain, a minimum, each of the following components in the amounts indicated for the specific age group.

BREAKFAST	Age 3, 4, & 5	Age 6 up to 12
1. Milk, fluid	$\frac{3}{4}$ cup	1 cup
2. Juice, ^a fruit or vegetable or Fruit(s) or vegetable(s)	$\frac{1}{2}$ cup	$\frac{1}{2}$ cup
3. Grains/Breads: ^b	$\frac{1}{2}$ cup	$\frac{1}{2}$ cup
Bread	$\frac{1}{2}$ slice	1 slice
Cornbread, biscuits, rolls, muffins, etc ^b	$\frac{1}{2}$ serving	1 serving
Cereal:		
Cold dry	$\frac{1}{3}$ cup or $\frac{1}{2}$ oz ^c	$\frac{3}{4}$ cup or 1 oz ^c
Hot cooked	$\frac{1}{4}$ cup	$\frac{1}{2}$ cup
Cooked pasta or noodle products	$\frac{1}{4}$ cup	$\frac{1}{2}$ cup
LUNCH OR SUPPER	Age 3, 4, & 5	Age 6 up to 12
1. Milk	$\frac{3}{4}$ cup	1 cup
2. Meat or meat alternate:		
Meat, poultry, fish, cheese	1 + $\frac{1}{2}$ oz	2 oz
Alternate protein products ^g	1 + $\frac{1}{2}$ oz	2 oz
Yogurt, plain or flavored, unsweetened or sweetened	6 oz or $\frac{3}{4}$ cup	8 oz or 1 cup
Egg	$\frac{3}{4}$ egg	1 egg
Cooked dry beans or peas	$\frac{3}{8}$ cup	$\frac{1}{2}$ cup
Peanut butter or other nut or seed butter	3 Tbsp.	4 Tbsp.
Peanuts or soynuts or tree nuts or seeds	$\frac{3}{4}$ oz = 50% ^d	1 oz = 50% ^d
3. Vegetable and/or fruit ^e (at least two)	$\frac{1}{2}$ cup total	$\frac{3}{4}$ cup total
4. Grains/Breads: ^b		
Bread	$\frac{1}{2}$ slice	1 slice
Cornbread, biscuits, rolls, muffins, etc ^b	$\frac{1}{2}$ serving	1 serving
Cereal, hot cooked	$\frac{1}{4}$ cup	$\frac{1}{2}$ cup
Cereal, cold, dry	$\frac{1}{3}$ cup or $\frac{1}{2}$ oz ^c	$\frac{3}{4}$ cup or 1 oz ^c
Cooked pasta or noodle products	$\frac{1}{4}$ cup	$\frac{1}{2}$ cup
SUPPLEMENT	Age 3, 4, & 5	Age 6 up to 12
Select two of the following four components:		
1. Milk	$\frac{1}{2}$ cup	1 cup
2. Juice, ^{a,f} fruit or vegetable or Fruit(s) or vegetable(s)	$\frac{1}{2}$ cup	$\frac{3}{4}$ cup
3. Grains/Breads: ^b	$\frac{1}{2}$ cup	$\frac{3}{4}$ cup
Bread	$\frac{1}{2}$ slice	1 slice
Cornbread, biscuits, rolls, muffins, etc ^b	$\frac{1}{2}$ serving	1 serving
Cereal:		
Cold dry	$\frac{1}{3}$ cup or $\frac{1}{2}$ oz ^c	$\frac{3}{4}$ cup or 1 oz ^c
Hot cooked	$\frac{1}{4}$ cup	$\frac{1}{2}$ cup
4. Meat or meat alternate		
Meat, poultry, fish, cheese	$\frac{1}{2}$ oz	1 oz
Alternate protein products ^g	$\frac{1}{2}$ oz	1 oz
Egg, Large ^h	$\frac{1}{2}$ egg	$\frac{1}{2}$ egg
Cooked dry beans or peas	$\frac{1}{8}$ cup	$\frac{1}{4}$ cup
Peanut butter or other nut or seed butter	1 Tbsp.	2 Tbsp.
Peanuts or soynuts or tree nuts or seeds	$\frac{1}{2}$ oz	1 oz
Yogurt, plain or flavored, unsweetened or sweetened	2 oz or $\frac{1}{4}$ cup	4 oz or $\frac{1}{2}$ cup

^a Must be full strength fruit or vegetable juice.

^b Bread, pasta or noodle products, and cereal grains shall be whole grain or enriched, cornbread, biscuits, rolls, muffins, etc., shall be made with whole grain or enriched meal or flour.

^c Either volume (cup) or weight (oz), whichever is less.

^d No more than 50% of the requirement shall be met with tree nuts or seeds. Tree nuts and seeds shall be combined with another meat/meat alternate to fulfill the requirement. For purpose of determining combinations, 1 oz. of nuts or seeds is equal to 1 oz. of cooked lean meat, poultry or fish.

^e Serve 2 or more kinds of vegetable(s) and/or fruit(s). Full strength vegetable or fruit juice may be counted to meet not more than one-half of this requirement.

^f Juice may not be served when milk is the only other component.

^g Alternate protein products may be used as acceptable meat alternates. These products must meet the requirements of Attachment E of PI-1486.

^h One-half egg meets the required minimum amount (one-ounce or less) of meat alternate.

APPENDIX C

KEY STATUTES RELATED TO LICENSING OF CHILD CARE CENTERS

This appendix is based upon the updated 2013-14 Wisconsin Statutes & Annotations published August 1, 2016. Updated through 2015 Wisconsin Act 392 and all Supreme Court Orders entered before August 1, 2016. Only pertinent portions of the statutes are included here and were obtained at <http://folio.legis.state.wi.us>. Action by the legislature may result in changes to these statutes. Only printed volumes are Official Text under s. 35.18(2), Wis. Stats.

48.02 Definitions. [2015]

(8) "Guardian" means the person named by the court having the duty and authority of guardianship.

(13) "Parent" means a biological parent, a husband who has consented to the artificial insemination of his wife under s. 891.40, or a parent by adoption. If the child is a nonmarital child who is not adopted or whose parents do not subsequently intermarry under s. 767.803, "parent" includes a person acknowledged under s. 767.805 or a substantially similar law of another state or adjudicated to be the biological father. "Parent" does not include any person whose parental rights have been terminated. For purposes of the application of s. 48.028 and the federal Indian Child Welfare Act, 25 USC 1901 to 1963, "parent" means a biological parent, an Indian husband who has consented to the artificial insemination of his wife under s. 891.40, or an Indian person who has lawfully adopted an Indian child, including an adoption under tribal law or custom, and includes, in the case of a nonmarital child who is not adopted or whose parents do not subsequently intermarry under s. 767.803, a person acknowledged under s. 767.805, a substantially similar law of another state, or tribal law or custom to be the biological father or a person adjudicated to be the biological father, but does not include any person whose parental rights have been terminated.

(15) "Relative" means a parent, stepparent, brother, sister, stepbrother, stepsister, half brother, half sister, brother-in-law, sister-in-law, first cousin, 2nd cousin, nephew, niece, uncle, aunt, stepuncle, steppaunt, or any person of a preceding generation as denoted by the prefix of grand, great, or great-great, whether by blood, marriage, or legal adoption, or the spouse of any person named in this subsection, even if the marriage is terminated by death or divorce. For purposes of the application of s. 48.028 and the federal Indian Child Welfare Act, 25 USC 1901 to 1963, "relative" includes an extended family member, as defined in s. 48.028(2)(am), whether by blood, marriage, or adoption, including adoption under tribal law or custom. For purposes of placement of a child, "relative" also includes a parent of a sibling of the child who has legal custody of that sibling.

48.48 Authority of department. [2015] The department shall have authority: (10) To license child welfare agencies and child care centers as provided in s. 48.66(1)(a).

48.65 Child care centers licensed; fees. [2011]

(1) No person may for compensation provide care and supervision for 4 or more children under the age of 7 for less than 24 hours a day unless that person obtains a license to operate a child care center from the department. To obtain a license under this subsection to operate a child care center, a person must meet the minimum requirements for a license established by the department under s. 48.67, meet the requirements specified in s. 48.685, and pay the license fee under sub. (3). A license issued under this subsection is valid until revoked or suspended, but shall be reviewed every 2 years as provided in s. 48.66(5).

(2) This section does not include any of the following:

(a) A parent, grandparent, greatgrandparent, stepparent, brother, sister, first cousin, nephew, niece, uncle, or aunt of a child, whether by blood, marriage, or legal adoption, who provides care and supervision for the child.

(am) A guardian of a child who provides care and supervision for the child.

(b) A public or parochial school or a tribal school.

(c) A person employed to come to the home of the child's parent or guardian for less than 24 hours a day.

(d) A county, city, village, town, school district or library that provides programs primarily intended for recreational or social purposes.

(3)(a) Except as provided in par. (c), before the department may issue a license under sub. (1) to a child care center that provides care and supervision for 4 to 8 children, the child care center must pay to the department a biennial fee of \$60.50. Except as provided in par. (c), before the department may issue a license under sub. (1) to a child care center that provides care and supervision for 9 or more children, the child care center must pay to the department a biennial fee of \$30.25, plus a biennial fee of \$16.94 per child, based on the number of children that the child care center is licensed to serve. A child care center that wishes to continue a license issued under sub. (1) shall pay the applicable fee under this paragraph by the continuation date of the license. A new child care center shall pay the applicable fee under this paragraph no later than 30 days before the opening of the child care center.

(b) A child care center that wishes to continue a license issued under par. (a) and that fails to pay the applicable fee under par. (a) by the continuation date of the license or a new child care center that fails to pay the applicable fee under par. (a) by 30 days before the opening of the child care center shall pay an additional fee of \$5 per day for every day after the deadline that the child care center fails to pay the fee.

(c) An individual who is eligible for a fee waiver under the veterans fee waiver program under s. 45.44 is not required to pay a fee under par. (a) for a license under sub. (1).

48.66 Licensing duties of the department. [2013]

(1)(a) Except as provided in s. 48.715(6) and (7), the department shall license and supervise child welfare agencies, as required by s. 48.60, group homes, as required by s. 48.625, shelter care facilities, as required by s. 938.22, and child care centers, as required by s. 48.65. The department may license foster homes, as provided by s. 48.62, and may license and supervise county departments in accordance with the procedures specified in this section and in ss. 48.67 to 48.74. In the discharge of this duty the department may inspect the records and visit the premises of all child welfare agencies, group homes, shelter care facilities, and child care centers and visit the premises of all foster homes in which children are placed.

(c) A license issued under par. (a) or (b), other than a license to operate a foster home or secured residential care center for children and youth, is valid until revoked or suspended. A license issued under this subsection to operate a foster home or secured residential care center for children and youth may be for any term not to exceed 2 years from the date of issuance. No license issued under par. (a) or (b) is transferable.

(2) The department shall prescribe application forms to be used by all applicants for licenses from it. The application forms prescribed by the department shall require that the social security numbers of all applicants for a license to operate a child welfare agency, group home, shelter care facility, or child care center who are individuals, other than an individual who does not have a social security number and who submits a statement made or subscribed under oath or affirmation as required under sub. (2m)(a)2., be provided and that the federal employer identification numbers of all applicants for a license to operate a child welfare agency, group home, shelter care facility, or child care center who are not individuals be provided.

APPENDIX C

(2m) (a) 1. Except as provided in subd. 2., the department shall require each applicant for a license under sub. (1)(a) to operate a child welfare agency, group home, shelter care facility, or child care center who is an individual to provide that department with the applicant's social security number, and shall require each applicant for a license under sub. (1)(a) to operate a child welfare agency, group home, shelter care facility, or child care center who is not an individual to provide that department with the applicant's federal employer identification number, when initially applying for or applying to continue the license.

2. If an applicant who is an individual does not have a social security number, the applicant shall submit a statement made or subscribed under oath or affirmation to the department that the applicant does not have a social security number. The form of the statement shall be prescribed by the department. A license issued in reliance upon a false statement submitted under this subdivision is invalid.

(b) If an applicant who is an individual fails to provide the applicant's social security number to the department or if an applicant who is not an individual fails to provide the applicant's federal employer identification number to the department, that department may not issue or continue a license under sub. (1)(a) to operate a child welfare agency, group home, shelter care facility, or child care center to or for the applicant unless the applicant is an individual who does not have a social security number and the applicant submits a statement made or subscribed under oath or affirmation as required under par. (a)2.

(c) The subunit of the department that obtains a social security number or a federal employer identification number under par. (a)1. may not disclose that information to any person except to the department of revenue for the sole purpose of requesting certifications under s. 73.0301 and to the department of workforce development for the sole purpose of requesting certifications under s. 108.227 or on the request of the subunit of the department that administers the child and spousal support program under s. 49.22(2m).

(3) The department shall prescribe the form and content of records to be kept and information to be reported by persons licensed by it.

(5) A child welfare agency, group home, child care center, or shelter care facility license, other than a probationary license, is valid until revoked or suspended, but shall be reviewed every 2 years after the date of issuance as provided in this subsection. At least 30 days prior to the continuation date of the license, the licensee shall submit to the department an application for continuance of the license in the form and containing the information that the department requires. If the minimum requirements for a license established under s. 48.67 are met, the application is approved, the applicable fees referred to in ss. 48.68(1) and 48.685(8) are paid, and any forfeiture under s. 48.715(3)(a) or penalty under s. 48.76 that is due is paid, the department shall continue the license for an additional 2-year period, unless sooner suspended or revoked. If the application is not timely filed, the department shall issue a warning to the licensee. If the licensee fails to apply for continuance of the license within 30 days after receipt of the warning, the department may revoke the license as provided in s. 48.715(4) and (4m)(b).

48.67 Rules governing child welfare agencies, child care centers, foster homes, group homes, shelter care facilities, and county departments. [2015] The department shall promulgate rules establishing minimum requirements for the issuance of licenses to, and establishing standards for the operation of, child welfare agencies, child care centers, foster homes, group homes, shelter care facilities, and county departments. Those rules shall be designed to protect and promote the health, safety, and welfare of the children in the care of all licensees. The department

shall consult with the department of safety and professional services, the department of public instruction, and the child abuse and neglect prevention board before promulgating those rules. For foster homes, those rules shall include the rules promulgated under s. 48.62(8). Those rules shall include rules that require all of the following:

(1) That all child care center licensees, and all employees and volunteers of a child care center, who provide care and supervision for children under one year of age receive, before the date on which the license is issued or the employment or volunteer work commences, whichever is applicable, training in the most current medically accepted methods of preventing sudden infant death syndrome. The rules shall provide that any training in those methods that a licensee has obtained in connection with military service, as defined in s. 111.32(12g), counts toward satisfying the training requirement under this subsection if the licensee demonstrates to the satisfaction of the department that the training obtained in that connection is substantially equivalent to the training required under this subsection.

(2) That all child care center licensees, and all employees and volunteers of a child care center, who provide care and supervision for children under 5 years of age receive, before the date on which the license is issued or the employment or volunteer work commences, whichever is applicable, the training relating to shaken baby syndrome and impacted babies required under s. 253.15(4)(a) or (c).

(3)(a) That all child care center licensees, and all employees of a child care center, who provide care and supervision for children have current proficiency in the use of an automated external defibrillator, as defined in s. 256.15(1)(cr), achieved through instruction provided by an individual, organization, or institution of higher education that is approved under s. 46.03(38) to provide such instruction or through instruction obtained by the licensee in connection with military service, as defined in s. 111.32(12g), if the licensee demonstrates to the satisfaction of the department that the instruction obtained in that connection is substantially equivalent to the instruction provided by a person approved under s. 46.03(38).

48.68 Investigation of applicant; issuing of license. [2009]

(1) After receipt of an application for a license, the department shall investigate to determine if the applicant meets the minimum requirements for a license adopted by the department under s. 48.67 and meets the requirements specified in s. 48.685, if applicable. In determining whether to issue or continue a license, the department may consider any action by the applicant, or by an employee of the applicant, that constitutes a substantial failure by the applicant or employee to protect and promote the health, safety, and welfare of a child. Upon satisfactory completion of this investigation and payment of the fee required under s. 48.615(1)(a) or (b), 48.625(2)(a), 48.65(3)(a), or 938.22(7)(b), the department shall issue a license under s. 48.66(1)(a) or, if applicable, a probationary license under s. 48.69 or, if applicable, shall continue a license under s. 48.66(5). At the time of initial licensure and license renewal, the department shall provide a foster home licensee with written information relating to the monthly foster care rates and supplemental payments specified in s. 48.62(4), including payment amounts, eligibility requirements for supplemental payments, and the procedures for applying for supplemental payments.

48.685 Criminal history and child abuse record search. [2015]

(1) In this section:

(ag)1. "Caregiver" means any of the following:

a. A person who is, or is expected to be, an employee or contractor of an entity, who is or is expected to be under the

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control of the entity, as defined by the department by rule, and who has, or is expected to have, regular, direct contact with clients of the entity.

am. A person to whom delegation of the care and custody of a child under s. 48.979 has been, or is expected to be, facilitated by an entity.

b. A person who has, or is seeking, a license, certification or contract to operate an entity, who is receiving, or is seeking, payment under s. 48.623(6)(am) for operating an entity, or who is seeking payment under s. 48.623(6)(bm) for operating an entity.

2. "Caregiver" does not include a person who is certified as an emergency medical technician under s. 256.15 if the person is employed, or seeking employment, as an emergency medical technician and does not include a person who is certified as a first responder under s. 256.15 if the person is employed, or seeking employment, as a first responder.

(am) "Client" means a person who receives direct care or treatment services from an entity or from a caregiver specified in par. (ag)1.am.

(ar) "Contractor" means, with respect to an entity, a person, or that person's agent, who provides services to the entity under an express or implied contract or subcontract, including a person who has staff privileges at the entity and a person to whom delegation of the care and custody of a child under s. 48.979 has been facilitated by the entity.

(av) "Direct contact" means face-to-face physical proximity to a client that affords the opportunity to commit abuse or neglect of a client or to misappropriate the property of a client.

(b) "Entity" means a child welfare agency that is licensed under s. 48.60 to provide care and maintenance for children, to place children for adoption, or to license foster homes; a foster home that is licensed under s. 48.62; an interim caretaker to whom subsidized guardianship payments are made under s. 48.623(6); a person who is proposed to be named as a successor guardian in a successor [subsidized] guardianship agreement under s. 48.623(2); a group home that is licensed under s. 48.625; a shelter care facility that is licensed under s. 938.22; a child care center that is licensed under s. 48.65 or established or contracted for under s. 120.13(14); a child care provider that is certified under s. 48.651; an organization that facilitates delegations of the care and custody of children under s. 48.979; or a temporary employment agency that provides caregivers to another entity.

(bm) "Nonclient resident" means a person who resides, or is expected to reside, at an entity or with a caregiver specified in par. (ag)1.am., who is not a client of the entity or caregiver, and who has, or is expected to have, regular, direct contact with clients of the entity or caregiver.

(br) "Reservation" means land in this state within the boundaries of a reservation of a tribe or within the bureau of Indian affairs service area for the Ho-Chunk Nation.

(c) "Serious crime" means any of the following:

1. A violation of s. 940.19(3), 1999 stats.

2. A violation of s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19(2), (4), (5) or (6), 940.22(2) or (3), 940.225(1), (2) or (3), 940.285(2), 940.29, 940.295, 942.09(2), 948.02(1) or (2), 948.025, 948.03(2) or (5)(a)1., 2., 3., or 4., 948.05, 948.051, 948.055, 948.06, 948.07, 948.08, 948.085, 948.11(2)(a) or (am), 948.12, 948.13, 948.21(1), 948.30, or 948.53.

3. A violation of s. 940.302(2) if s. 940.302(2)(a)1. b. applies.

3m. For purposes of licensing a person to operate a child care center under s. 48.65, certifying a child care provider under s. 48.651, or contracting with a person under s. 120.13(14) to operate a child care center, or of permitting a person to be a caregiver or nonclient resident of such a child care center or child care provider, any violation listed in subds. 1. to 3. or sub. (5)(br) 1. to 7.

4. A violation of the law of any other state or United States jurisdiction that would be a violation listed in subd. 1., 2., 3., or 3m. if committed in this state.

(2)(am) The department, a county department, an agency contracted with under s. 48.651(2), a child welfare agency, or a school board shall obtain all of the following with respect to a caregiver specified in sub. (1)(ag)1.b., a nonclient resident of an entity, and a person under 18 years of age, but not under 12 years of age, who is a caregiver of a child care center that is licensed under s. 48.65 or established or contracted for under s. 120.13(14) or of a child care provider that is certified under s. 48.651:

1. A criminal history search from the records maintained by the department of justice.

2. Information that is contained in the registry under s. 146.40(4g) regarding any findings against the person.

3. Information maintained by the department of safety and professional services regarding the status of the person's credentials, if applicable.

4. Information maintained by the department regarding any final determination under s. 48.981(3)(c) 5m. or, if a contested case hearing is held on such a determination, any final decision under s. 48.981(3)(c) 5p. that the person has abused or neglected a child.

5. Information maintained by the department of health services under this section and under ss. 48.623(6)(am) 2. and (bm) 5., 48.651(2m), 48.75(1m), 48.979(1)(b), and 120.13(14) regarding any denial to the person of a license, continuation or renewal of a license, certification, or a contract to operate an entity, or of payments under s. 48.623(6) for operating an entity, for a reason specified in sub. (4m)(a)1. to 5. and regarding any denial to the person of employment at, a contract with, or permission to reside at an entity or of permission to reside with a caregiver specified in sub. (1)(ag)1.am. for a reason specified in sub. (4m)(b)1. to 5. If the information obtained under this subdivision indicates that the person has been denied a license, continuation or renewal of a license, certification, a contract, payments, employment, or permission to reside as described in this subdivision, the department, a county department, an agency contracted with under s. 48.651(2), a child welfare agency, or a school board need not obtain the information specified in subds. 1. to 4.

(ar) In addition to obtaining the information specified in par. (am) with respect to a person who has, or is seeking, a license to operate a child care center under s. 48.65, certification as a child care provider under s. 48.651, or a contract under s. 120.13(14) to operate a child care center, a nonclient resident of such an entity, or a person under 18 years of age, but not under 12 years of age, who is a caregiver of such an entity, the department, a county department, an agency contracted with under s. 48.651(2), or a school board shall obtain information that is contained in the sex offender registry under s. 301.45 regarding whether the person has committed a sex offense that is a serious crime.

(b)1. Every entity shall obtain all of the following with respect to a caregiver specified in sub. (1)(ag)1.a. or am. of the entity and with respect to a nonclient resident of a caregiver specified in sub. (1)(ag)1.am. of the entity:

a. A criminal history search from the records maintained by the department of justice.

b. Information that is contained in the registry under s. 146.40(4g) regarding any findings against the person.

c. Information maintained by the department of safety and professional services regarding the status of the person's credentials, if applicable.

d. Information maintained by the department regarding any final determination under s. 48.981(3)(c) 5m. or, if a contested case hearing is held on such a determination, any final decision under s. 48.981(3)(c) 5p. that the person has abused or neglected a child.

e. Information maintained by the department of health services under this section and under ss. 48.623(6)(am) 2. and (bm) 5., 48.651(2m), 48.75(1m), 48.979(1)(b), and 120.13(14)

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regarding any denial to the person of a license, continuation or renewal of a license, certification, or a contract to operate an entity, or of payments under s. 48.623(6) for operating an entity, for a reason specified in sub. (4m)(a)1. to 5. and regarding any denial to the person of employment at, a contract with, or permission to reside at an entity or of permission to reside with a caregiver specified in sub. (1)(ag)1.am. for a reason specified in sub. (4m)(b)1. to 5. If the information obtained under this subd. 1. e. indicates that the person has been denied a license, continuation or renewal of a license, certification, a contract, payments, employment, or permission to reside as described in this subd. 1. e., the entity need not obtain the information specified in subd. 1.a. to d.

2. In addition to obtaining the information specified in subd. 1. with respect to a caregiver specified in sub. (1)(ag)1.a. of a child care center that is licensed under s. 48.65 or established or contracted for under s. 120.13(14) or of a child care provider that is certified under s. 48.651, the child care center or child care provider shall obtain information that is contained in the sex offender registry under s. 301.45 regarding whether the person has committed a sex offense that is a serious crime.

4. Subdivisions 1. and 2. do not apply with respect to a nonclient resident or person under 18 years of age, but not under 12 years of age, who is a caregiver of a child care center that is licensed under s. 48.65 or established or contracted for under s. 120.13(14) or of a child care provider that is certified under s. 48.651 and with respect to whom the department, a county department, an agency contracted with under s. 48.651(2), or a school board is required under par. (am)(intro.) to obtain the information specified in par. (am)1. to 5.

(bb) If information obtained under par. (am) or (b)1. indicates a charge of a serious crime, but does not completely and clearly indicate the final disposition of the charge, the department, county department, agency contracted with under s. 48.651(2), child welfare agency, school board, or entity shall make every reasonable effort to contact the clerk of courts to determine the final disposition of the charge. If a background information form under sub. (6)(a) or (am) indicates a charge or a conviction of a serious crime, but information obtained under par. (am) or (b)1. does not indicate such a charge or conviction, the department, county department, agency contracted with under s. 48.651(2), child welfare agency, school board, or entity shall make every reasonable effort to contact the clerk of courts to obtain a copy of the criminal complaint and the final disposition of the complaint. If information obtained under par. (am) or (b)1., a background information form under sub. (6)(a) or (am), or any other information indicates a conviction of a violation of s. 940.19(1), 940.195, 940.20, 941.30, 942.08, 947.01(1), or 947.013 obtained not more than 5 years before the date on which that information was obtained, the department, county department, agency contracted with under s. 48.651(2), child welfare agency, school board, or entity shall make every reasonable effort to contact the clerk of courts to obtain a copy of the criminal complaint and judgment of conviction relating to that violation.

(bd) Notwithstanding pars. (am) and (b)1., the department, a county department, an agency contracted with under s. 48.651(2), a child welfare agency, or a school board is not required to obtain the information specified in par. (am)1. to 5., and an entity is not required to obtain the information specified in par. (b)1. a. to e., with respect to a person under 18 years of age whose background information form under sub. (6)(am) indicates that the person is not ineligible to be employed at, contracted with, or permitted to reside at an entity or permitted to reside with a caregiver specified under sub. (1)(ag)1.am. of the entity for a reason specified in sub. (4m)(b)1. to 5. and with respect to whom the department, county department, contracted agency, child welfare agency, school board, or entity otherwise has no reason to believe that the person is ineligible to be employed, contracted with, or permitted to reside

at an entity for any of those reasons. This paragraph does not preclude the department, a county department, an agency contracted with under s. 48.651(2), a child welfare agency, or a school board from obtaining, at its discretion, the information specified in par. (am)1. to 5. with respect to a person described in this paragraph who is a nonclient resident or a prospective nonclient resident of an entity.

(bg) If an entity employs or contracts with a caregiver for whom, within the last year, the information required under par. (b)1. a. to c. and e. has already been obtained by another entity, the entity may obtain that information from that other entity, which shall provide the information, if possible, to the requesting entity. If an entity cannot obtain the information required under par. (b)1. a. to c. and e. from another entity or if an entity has reasonable grounds to believe that any information obtained from another entity is no longer accurate, the entity shall obtain that information from the sources specified in par. (b)1. a. to c. and e.

(bm) If the person who is the subject of the search under par. (am), (ar), or (b)1. is not a resident of this state, or if at any time within the 3 years preceding the date of the search that person has not been a resident of this state, or if the department, county department, agency contracted with under s. 48.651(2), child welfare agency, school board, or entity determines that the person's employment, licensing, or state court records provide a reasonable basis for further investigation, the department, county department, contracted agency, child welfare agency, school board, or entity shall make a good faith effort to obtain from any state or other United States jurisdiction in which the person is a resident or was a resident within the 3 years preceding the date of the search information that is equivalent to the information specified in par. (am)1., (ar), or (b)1. a. The department, county department, contracted agency, child welfare agency, school board, or entity may require the person to be fingerprinted on 2 fingerprint cards, each bearing a complete set of the person's fingerprints, or by other technologies approved by law enforcement agencies. The department of justice may provide for the submission of the fingerprint cards or fingerprints by other technologies to the federal bureau of investigation for the purposes of verifying the identity of the person fingerprinted and obtaining records of his or her criminal arrests and convictions.

(br) If the person who is the subject of a search under par. (am) or (b)1. has, or is seeking, a license to operate a child care center under s. 48.65, certification as a child care provider under s. 48.651, or a contract under s. 120.13(14) to operate a child care program, or is an adult nonclient resident or caregiver of such an entity, and if the entity is receiving, or wishes to receive, payment under s. 49.155 for providing child care services, the department, county department, agency contracted with under s. 48.651(2), or school board shall require the person to be fingerprinted on 2 fingerprint cards, each bearing a complete set of the person's fingerprints, or by other technologies approved by law enforcement agencies, unless the person has previously been fingerprinted under this paragraph. The department of justice may provide for the submission of the fingerprint cards or fingerprints by other technologies to the federal bureau of investigation for the purposes of verifying the identity of the person fingerprinted and obtaining records of his or her criminal arrests and convictions.

(d) Every entity shall maintain, or shall contract with another person to maintain, the most recent background information obtained on a caregiver under par. (b). The information shall be made available for inspection by authorized persons, as defined by the department by rule.

(3)(a) Subject to par. (am), every 4 years or at any time within that period that the department, a county department, or a child welfare agency considers appropriate, the department, county department, or child welfare agency shall request the information specified in sub. (2)(am)1. to 5. for all caregivers specified in sub. (1)(ag)1.b. who are licensed, certified, or contracted to operate an

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entity, or who are receiving payments under s. 48.623(6)(am) for operating an entity, and for all persons who are nonclient residents of such a caregiver.

(am)1. Every year or at any time within that period that the department, a county department, an agency contracted with under s. 48.651(2), or a school board considers appropriate, the department, county department, contracted agency, or school board shall request the information specified in sub. (2)(am)1. to 5. and (ar) for all caregivers specified in sub. (1)(ag)1.b. who are licensed under s. 48.65 to operate a child care center, certified as a child care provider under s. 48.651, or contracted under s. 120.13(14) to operate a child care center, for all persons who are nonclient residents of such a caregiver, and for all persons under 18 years of age, but not under 12 years of age, who are caregivers specified in sub. (1)(ag)1.a. of such a caregiver.

2m. Annually, by January 1, the department shall submit a report to the appropriate standing committees of the legislature under s. 13.172(3) describing the information collected under subd. 1. with respect to caregivers specified in sub. (1)(ag)1.b. who are licensed under s. 48.65 to operate a child care center, certified as a child care provider under s. 48.651, or contracted under s. 120.13(14) to operate a child care center, specifically any information indicating that such a caregiver is ineligible under sub. (4m)(a) to be so licensed, certified, or contracted, and describing any action taken in response to the receipt of information under subd. 1. indicating that such a caregiver is so ineligible.

(b) Subject to par. (bm), every 4 years or at any time within that period that an entity considers appropriate, the entity shall request the information specified in sub. (2)(b)1. a. to e. for all persons who are caregivers specified in sub. (1)(ag)1.a. or am. of the entity and for all nonclient residents of a caregiver specified in sub. (1)(ag)1.am. of the entity.

(bm) Every year or at any time within that period that a child care center that is licensed under s. 48.65 or established or contracted for under s. 120.13(14) or a child care provider that is certified under s. 48.651 considers appropriate, the child care center or child care provider shall request the information specified in sub. (2)(b)1. a. to e. and 2. for all persons who are caregivers specified in sub. (1)(ag)1.a. of the child care center or child care provider who are 18 years of age or over.

(3m) Notwithstanding subs. (2)(b)1. and (3)(b), if the department, a county department, an agency contracted with under s. 48.651(2), a child welfare agency, or a school board has obtained the information required under sub. (2)(am) or (3)(a) or (am) with respect to a person who is a caregiver specified in sub. (1)(ag)1.b. and that person is also an employee, contractor, or nonclient resident of an entity, the entity is not required to obtain the information specified in sub. (2)(b)1. or (3)(b) with respect to that person.

(4) An entity that violates sub. (2), (3) or (4m)(b) may be required to forfeit not more than \$1,000 and may be subject to other sanctions specified by the department by rule.

(4m)(a) Notwithstanding s. 111.335, and except as provided in par. (ad) and sub. (5), the department may not license, or continue or renew the license of, a person to operate an entity, the department in a county having a population of 750,000 or more, a county department, or an agency contracted with under s. 48.651(2) may not certify a child care provider under s. 48.651, a county department or a child welfare agency may not license, or renew the license of, a foster home under s. 48.62, the department in a county having a population of 750,000 or more or a county department may not provide subsidized guardianship payments to an interim caretaker under s. 48.623(6)(am) or to a person seeking those payments as a successor guardian under s. 48.623(6)(bm), and a school board may not contract with a person under s. 120.13(14), if the department, county department, contracted

agency, child welfare agency, or school board knows or should have known any of the following:

1. That the person has been convicted of a serious crime or, if the person is a caregiver or nonclient resident of a child care center that is licensed under s. 48.65 or established or contracted for under s. 120.13(14) or of a child care provider that is certified under s. 48.651, that the person has been convicted of a serious crime or adjudicated delinquent on or after his or her 12th birthday for committing a serious crime or that the person is the subject of a pending criminal charge or delinquency petition alleging that the person has committed a serious crime on or after his or her 12th birthday.

3. That a unit of government or a state agency, as defined in s. 16.61(2)(d), has made a finding that the person has abused or neglected any client or misappropriated the property of any client.

4. That a final determination has been made under s. 48.981(3)(c) 5m. or, if a contested case hearing is held on such a determination, a final decision has been made under s. 48.981(3)(c) 5p. that the person has abused or neglected a child.

5. That, in the case of a position for which the person must be credentialed by the department of safety and professional services, the person's credential is not current or is limited so as to restrict the person from providing adequate care to a client.

(ad) The department, a county department, or a child welfare agency may license a foster home under s. 48.62; the department may license a child care center under s. 48.65; the department in a county having a population of 750,000 or more, a county department, or an agency contracted with under s. 48.651(2) may certify a child care provider under s. 48.651; the department in a county having a population of 750,000 or more or a county department may provide subsidized guardianship payments to an interim caretaker under s. 48.623(6)(am) or to a person seeking those payments as a successor guardian under s. 48.623(6)(bm); and a school board may contract with a person under s. 120.13(14), conditioned on the receipt of the information specified in sub. (2)(am) and (ar) indicating that the person is not ineligible to be licensed, certified, provided payments, or contracted with for a reason specified in par. (a)1. to 5.

(b) Notwithstanding s. 111.335, and except as provided in sub. (5), an entity may not employ or contract with a caregiver specified in sub. (1)(ag)1.a. or am. or permit a nonclient resident to reside at the entity or with a caregiver specified in sub. (1)(ag)1.am. of the entity if the entity knows or should have known any of the following:

1. That the person has been convicted of a serious crime or, if the person is a caregiver or nonclient resident of a child care center that is licensed under s. 48.65 or established or contracted for under s. 120.13(14) or of a child care provider that is certified under s. 48.651, that the person has been convicted of a serious crime or adjudicated delinquent on or after his or her 12th birthday for committing a serious crime or that the person is the subject of a pending criminal charge or delinquency petition alleging that the person has committed a serious crime on or after his or her 12th birthday.

3. That a unit of government or a state agency, as defined in s. 16.61(2)(d), has made a finding that the person has abused or neglected any client or misappropriated the property of any client.

4. That a final determination has been made under s. 48.981(3)(c) 5m. or, if a contested case hearing is held on such a determination, a final decision has been made under s. 48.981(3)(c) 5p. that the person has abused or neglected a child.

5. That, in the case of a position for which the person must be credentialed by the department of safety and professional services, the person's credential is not current or is limited so as to restrict the person from providing adequate care to a client.

(c) If the background information form completed by a person under sub. (6)(am) indicates that the person is not ineligible to be employed or contracted with for a reason specified in par.

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(b)1. to 5., an entity may employ or contract with the person for not more than 60 days pending the receipt of the information sought under sub. (2)(am) or (b)1. If the background information form completed by a person under sub. (6)(am) indicates that the person is not ineligible to be permitted to reside at an entity or with a caregiver specified in sub. (1)(ag)1.am. for a reason specified in par. (b)1. to 5. and if an entity otherwise has no reason to believe that the person is ineligible to be permitted to reside at an entity or with that caregiver for any of those reasons, the entity may permit the person to reside at the entity or with the caregiver for not more than 60 days pending receipt of the information sought under sub. (2)(am) or (b)1. An entity shall provide supervision for a person who is employed, contracted with, or permitted to reside as permitted under this paragraph.

(5)(a) Subject to pars. (bm) and (br), the department may license to operate an entity, the department in a county having a population of 750,000 or more, a county department, or an agency contracted with under s. 48.651(2) may certify under s. 48.651, a county department or a child welfare agency may license under s. 48.62, the department in a county having a population of 750,000 or more or a county department may provide subsidized guardianship payments under s. 48.623(6), and a school board may contract with under s. 120.13(14) a person who otherwise may not be licensed, certified, or contracted with for a reason specified in sub. (4m)(a)1. to 5., and an entity may employ, contract with, or permit to reside at the entity or permit to reside with a caregiver specified in sub. (1)(ag)1.am. of the entity a person who otherwise may not be employed, provided payments, contracted with, or permitted to reside at the entity or with that caregiver for a reason specified in sub. (4m)(b)1. to 5., if the person demonstrates to the department, the county department, the contracted agency, the child welfare agency, or the school board or, in the case of an entity that is located within the boundaries of a reservation, to the person or body designated by the Indian tribe under sub. (5d)(a) 3., by clear and convincing evidence and in accordance with procedures established by the department by rule or by the tribe that he or she has been rehabilitated.

(br) For purposes of licensing a person to operate a child care center under s. 48.65, certifying a child care provider under s. 48.651, or contracting with a person under s. 120.13(14) to operate a child care center or of permitting a person to be a nonclient resident or caregiver specified in sub. (1)(ag)1.a. of a child care center or child care provider, no person who has been convicted or adjudicated delinquent on or after his or her 12th birthday for committing any of the following offenses or who is the subject of a pending criminal charge or delinquency petition alleging that the person has committed any of the following offenses on or after his or her 12th birthday may be permitted to demonstrate that he or she has been rehabilitated:

1. An offense under ch. 948 that is a felony, other than a violation of s. 948.22(2) or 948.51(2).

2. A violation of s. 940.19(3), 1999 stats., or of s. 940.19(2), (4), (5), or (6) or 940.20(1) or (1m), if the victim is the spouse of the person.

3. A violation of s. 940.01, 940.02, 940.03, 940.05, 940.06, 940.21, 940.225(1), (2), or (3), 940.23, 940.305, 940.31, 941.20(2) or (3), 941.21, 943.10(2), or 943.32(2).

3m. Except for purposes of permitting a person to be a nonclient resident or caregiver specified in sub. (1)(ag)1.a. of a child care center or child care provider, a violation of s. 943.201, 943.203, or 943.38(1) or (2); a violation of s. 943.34(1), 943.395(1), 943.41(3)(e), (4)(a), (5), (6), or (6m), 943.45(1), 943.455(2), 943.46(2), 943.47(2), 943.50(1m), or 943.70(2)(a) or (am) or (3)(a) that is a felony; or an offense under subch. IV of ch. 943 that is a felony.

4. A violation of sub. (2), (3), (4m)(b), or (6), if the violation involves the provision of false information to or the intentional withholding of information from the department, a county

department, an agency contracting under s. 48.651(2), a school board, or an entity.

5. An offense involving fraudulent activity as a participant in the Wisconsin Works program under ss. 49.141 to 49.161, including as a recipient of a child care subsidy under s. 49.155, or as a recipient of aid to families with dependent children under s. 49.19, medical assistance under subch. IV of ch. 49, food stamps benefits under the food stamp program under 7 USC 2011 to 2036, supplemental security income payments under s. 49.77, payments for the support of children of supplemental security income recipients under s. 49.775, or health care benefits under the Badger Care health care program under s. 49.665.

6. A violation of s. 125.075(1), 125.085(3)(a)2., 125.105(2)(b), 125.66(3), 125.68(12), 940.09, 940.19(2), (4), (5), or (6), 940.20, 940.203, 940.205, 940.207, 940.25, or 943.23(1g), a violation of s. 948.51(2) that is a felony under s. 948.51(3)(b) or (c), a violation of s. 346.63(1), (2), (5), or (6) that is a felony under s. 346.65(2)(am) 4. to 7., or (f), (2j)(d), or (3m), or an offense under ch. 961 that is a felony, if the person completed his or her sentence, including any probation, parole, or extended supervision, or was discharged by the department of corrections, less than 5 years before the date of the investigation under sub. (2)(am) or (b)1.

7. A violation of s. 948.22(2), if the person completed his or her sentence, including any probation, parole, or extended supervision, or was discharged by the department of corrections, less than 5 years before the date of the investigation under sub. (2)(am) or (b)1., unless the person has paid all arrearages due and is meeting his or her current support obligations.

(5c)(a) Any person who is permitted but fails under sub. (5)(a) to demonstrate to the department, an agency contracted with under s. 48.651(2), or a child welfare agency that he or she has been rehabilitated may appeal to the secretary or his or her designee. Any person who is adversely affected by a decision of the secretary or his or her designee under this paragraph has a right to a contested case hearing under ch. 227.

(b) Any person who is permitted but fails under sub. (5)(a) to demonstrate to the county department that he or she has been rehabilitated may appeal to the director of the county department or his or her designee. Any person who is adversely affected by a decision of the director or his or her designee under this paragraph has a right to appeal the decision under ch. 68.

(c) Any person who is permitted but fails under sub. (5)(a) to demonstrate to the school board that he or she has been rehabilitated may appeal to the state superintendent of public instruction or his or her designee. Any person who is adversely affected by a decision of the state superintendent or his or her designee under this paragraph has a right to a contested case hearing under ch. 227.

(5d)(a) Any Indian tribe that chooses to conduct rehabilitation reviews under sub. (5) shall submit to the department a rehabilitation review plan that includes all of the following:

1. The criteria to be used to determine if a person has been rehabilitated.

2. The title of the person or body designated by the Indian tribe to whom a request for review must be made.

3. The title of the person or body designated by the Indian tribe to determine whether a person has been rehabilitated.

3m. The title of the person or body, designated by the Indian tribe, to whom a person may appeal an adverse decision made by the person specified under subd. 3. and whether the Indian tribe provides any further rights to appeal.

4. The manner in which the Indian tribe will submit information relating to a rehabilitation review to the department so that the department may include that information in its report to the legislature required under sub. (5g).

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5. A copy of the form to be used to request a review and a copy of the form on which a written decision is to be made regarding whether a person has demonstrated rehabilitation.

(b) If, within 90 days after receiving the plan, the department does not disapprove the plan, the plan shall be considered approved. If, within 90 days after receiving the plan, the department disapproves the plan, the department shall provide notice of that disapproval to the Indian tribe in writing, together with the reasons for the disapproval. The department may not disapprove a plan unless the department finds that the plan is not rationally related to the protection of clients. If the department disapproves the plan, the Indian tribe may, within 30 days after receiving notice of the disapproval, request that the secretary review the department's decision. A final decision under this paragraph is not subject to further review under ch. 227.

(5g) Beginning on January 1 1999, and annually thereafter, the department shall submit a report to the legislature under s. 13.172(2) that specifies the number of persons in the previous year who have requested to demonstrate that they have been rehabilitated under sub. (5)(a), the number of persons who successfully demonstrated that they have been rehabilitated under sub. (5)(a) and the reasons for the success or failure of a person who has attempted to demonstrate that he or she has been rehabilitated.

(5m) Notwithstanding s. 111.335, the department may refuse to license a person to operate an entity, a county department or a child welfare agency may refuse to license a foster home under s. 48.62, the department in a county having a population of 750,000 or more or a county department may refuse to provide subsidized guardianship payments to a person under s. 48.623(6), and an entity may refuse to employ or contract with a caregiver or permit a nonclient resident to reside at the entity or with a caregiver specified in sub. (1)(ag)1.am. of the entity if the person has been convicted of an offense that is not a serious crime, but that is, in the estimation of the department, county department, child welfare agency, or entity, substantially related to the care of a client. Notwithstanding s. 111.335, the department may refuse to license a person to operate a child care center, the department in a county having a population of 750,000 or more, a county department, or an agency contracted with under s. 48.651(2) may refuse to certify a child care provider under s. 48.651, a school board may refuse to contract with a person under s. 120.13(14), and a child care center that is licensed under s. 48.65 or established or contracted for under s. 120.13(14) or a child care provider that is certified under s. 48.651 may refuse to employ or contract with a caregiver or permit a nonclient resident to reside at the child care center or child care provider if the person has been convicted of or adjudicated delinquent on or after his or her 12th birthday for an offense that is not a serious crime, but that is, in the estimation of the department, county department, contracted agency, school board, child care center, or child care provider, substantially related to the care of a client.

(6)(a) Except as provided in this paragraph, the department shall require any person who applies for issuance, continuation, or renewal of a license to operate an entity, [750,000] a county department or a child welfare agency shall require any person who applies for issuance or renewal of a license to operate a foster home under s. 48.62, and the department in a county having a population of 750,000 or more or a county department shall require any person who applies for subsidized guardianship payments under s. 48.623(6) to complete a background information form that is provided by the department. The department shall require any person who applies for issuance, but not continuation, of a license to operate a child care center under s. 48.65, a school board shall require any person who proposes to contract, but not renew a contract, with the school board under s. 120.13(14), and the department in a county having a population of

750,000 or more, a county department, or an agency contracted with under s. 48.651(2) shall require any child care provider who applies for initial certification, but not renewal of that certification, under s. 48.651 to complete a background information form that is provided by the department.

(am) Except as provided in this paragraph, every 4 years an entity shall require all of its caregivers and all nonclient residents of the entity or of a caregiver specified in sub. (1)(ag)1.am. of the entity to complete a background information form that is provided to the entity by the department. A child care center that is licensed under s. 48.65 or established or contracted for under s. 120.13(14) or a child care provider that is certified under s. 48.651 is exempt from the 4-year requirement, but shall require any new caregiver or nonclient resident to complete a background information form that is provided to the child care center or child care provider by the department.

(b)1. For caregivers who are licensed by the department, for persons under 18 years of age, but not under 12 years of age, who are caregivers of a child care center that is licensed under s. 48.65 or established or contracted for under s. 120.13(14) or of a child care provider that is certified under s. 48.651, for persons who are nonclient residents of an entity that is licensed by the department, and for other persons specified by the department by rule, the entity shall send the background information form to the department.

2. For caregivers who are licensed or certified by a county department or an agency contracted with under s. 48.651(2), for persons who are nonclient residents of an entity that is licensed or certified by a county department or an agency contracted with under s. 48.651(2), and for other persons specified by the department by rule, the entity shall send the background information form to the county department or contracted agency.

3. For caregivers who are licensed by a child welfare agency, for persons who are nonclient residents of an entity that is licensed by a child welfare agency and for other persons specified by the department by rule, the entity shall send the background information form to the child welfare agency.

4. For caregivers who are contracted with by a school board, for persons who are nonclient residents of an entity that is contracted with by a school board and for other persons specified by the department by rule, the entity shall send the background information form to the school board.

(c) A person who provides false information on a background information form required under this subsection may be required to forfeit not more than \$1,000 and may be subject to other sanctions specified by the department by rule.

(7) The department shall do all of the following:

(c) Conduct throughout the state periodic training sessions that cover criminal background investigations; reporting and investigating misappropriation of property or abuse or neglect of a client; and any other material that will better enable entities to comply with the requirements of this section.

(d) Provide a background information form that requires the person completing the form to include his or her date of birth on the form.

(8) The department, the department of health services, a county department, an agency contracted with under s. 48.651(2), a child welfare agency, or a school board may charge a fee for obtaining the information required under sub. (2)(am) or (ar) or (3)(a) or (am), for providing information to an entity to enable the entity to comply with sub. (2)(b)1. or (3)(b), or for obtaining and submitting fingerprints under sub. (2)(bm) or (br). The fee may not exceed the reasonable cost of obtaining the information or of obtaining and submitting fingerprints. No fee may be charged to a nurse aide, as defined in s. 146.40(1)(d), for obtaining or maintaining information or for obtaining and submitting fingerprints if to do so would be inconsistent with federal law.

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48.69 Probationary licenses. [2009] Except as provided under s. 48.715(6) and (7), if any child welfare agency, shelter care facility, group home, or child care center that has not been previously issued a license under s. 48.66(1)(a) applies for a license, meets the minimum requirements for a license established under s. 48.67, and pays the applicable fee referred to in s. 48.68(1), the department shall issue a probationary license to that child welfare agency, shelter care facility, group home, or child care center. A probationary license is valid for up to 6 months after the date of issuance unless renewed under this section or suspended or revoked under s. 48.715. Before a probationary license expires, the department shall inspect the child welfare agency, shelter care facility, group home, or child care center holding the probationary license and, except as provided under s. 48.715(6) and (7), if the child welfare agency, shelter care facility, group home, or child care center meets the minimum requirements for a license established under s. 48.67, the department shall issue a license under s. 48.66(1)(a). A probationary license issued under this section may be renewed for one 6-month period.

48.715 Sanctions and penalties. [2013]

(1) In this section, "licensee" means a person who holds a license under s. 48.66(1)(a) or a probationary license under s. 48.69 to operate a child welfare agency, shelter care facility, group home, or child care center.

(2) If the department provides written notice of the grounds for a sanction, an explanation of the types of sanctions that may be imposed under this subsection and an explanation of the process for appealing a sanction imposed under this subsection, the department may order any of the following sanctions:

(a) That a person stop operating a child welfare agency, shelter care facility, group home, or child care center if the child welfare agency, shelter care facility, group home, or child care center is without a license in violation of s. 48.66(1)(a) or a probationary license in violation of s. 48.69.

(b) That a person who employs a person who has had a license under s. 48.66(1)(a) or a probationary license under s. 48.69 revoked within the previous 5 years terminate the employment of that person within 30 days after the date of the order. This paragraph includes employment of a person in any capacity, whether as an officer, director, agent or employee.

(c) That a licensee stop violating any provision of licensure under s. 48.70(1) or rule promulgated by the department under s. 48.658(4)(a) or 48.67.

(d) That a licensee submit a plan of correction for violation of any provision of licensure under s. 48.70(1) or rule promulgated by the department under s. 48.658(4)(a) or 48.67.

(e) That a licensee implement and comply with a plan of correction provided by the department or previously submitted by the licensee and approved by the department.

(f) That a licensee close the intake of any new children until all violations of the provisions of licensure under s. 48.70(1) and the rules promulgated by the department under s. 48.658(4)(a) or 48.67 are corrected.

(g) That a licensee provide training for the licensee's staff members as specified by the department.

(3) If the department provides written notice of the grounds for a penalty, an explanation of the types of penalties that may be imposed under this subsection, and an explanation of the process for appealing a penalty imposed under this subsection, the department may impose any of the following penalties against a licensee or any other person who violates a provision of licensure under s. 48.70(1) or rule promulgated by the department under s. 48.658(4)(a) or 48.67 or who fails to comply with an order issued under sub. (2) by the time specified in the order:

(a) A daily forfeiture amount per violation of not less than \$10 nor more than \$1,000. All of the following apply to a forfeiture under this paragraph:

1. Within the limits specified in this paragraph, the department may, by rule, set daily forfeiture amounts and payment deadlines based on the size and type of facility or agency and the seriousness of the violation. The department may set daily forfeiture amounts that increase periodically within the statutory limits if there is continued failure to comply with an order issued under sub. (2).

2. The department may directly assess a forfeiture imposed under this paragraph by specifying the amount of that forfeiture in the notice provided under this subsection.

3. A person against whom the department has assessed a forfeiture shall pay that forfeiture to the department within 10 days after receipt of notice of the assessment or, if that person contests that assessment under s. 48.72, within 10 days after receipt of the final decision after exhaustion of administrative review or, if that person petitions for judicial review under ch. 227, within 10 days after receipt of the final decision after exhaustion of judicial review. The department shall remit all forfeitures paid under this subdivision to the secretary of administration for deposit in the school fund.

4. The attorney general may bring an action in the name of the state to collect any forfeiture imposed under this paragraph that has not been paid as provided in subd. 3. The only contestable issue in an action under this subdivision is whether or not the forfeiture has been paid.

(b) Suspension of the licensee's license for not more than 2 weeks.

(c) Refusal to continue a license or a probationary license.

(d) Revocation of a license or a probationary license as provided in sub. (4).

(4) If the department provides written notice of revocation and the grounds for revocation as provided in sub. (4m) and an explanation of the process for appealing a revocation under this subsection, the department may revoke a license issued under s. 48.66(1)(a) or a probationary license issued under s. 48.69 for any of the following reasons:

(a) The department has imposed a penalty on the licensee under sub. (3) and the licensee or a person under the supervision of the licensee either continues to violate or resumes violation of a rule promulgated under s. 48.658(4)(a) or 48.67, a provision of licensure under s. 48.70(1), or an order under this section forming any part of the basis for the penalty.

(b) The licensee or a person under the supervision of the licensee has committed a substantial violation, as determined by the department, of a rule promulgated under s. 48.658(4)(a) or 48.67, a provision of licensure under s. 48.70(1), or an order under this section.

(c) The licensee or a person under the supervision of the licensee has committed an action or has created a condition relating to the operation or maintenance of the child welfare agency, shelter care facility, group home, or child care center that directly threatens the health, safety, or welfare of any child under the care of the licensee.

(d) The licensee or a person under the supervision of the licensee has violated, as determined by the department, a rule promulgated under s. 48.658(4)(a) or 48.67, a provision of licensure under s. 48.70(1), or an order under this section that is the same as or similar to a rule promulgated under s. 48.658(4)(a) or 48.67, a provision of licensure under s. 48.70(1), or an order under this section that the licensee or a person under the supervision of the licensee has violated previously.

(e) The licensee has failed to apply for a continuance of the license within 30 days after receipt of the warning under s. 48.66(5).

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(4g)(a) If a person who has been issued a license under s. 48.66(1)(a) or a probationary license under s. 48.69 to operate a child care center is convicted of a serious crime, as defined in s. 48.685(1)(c) 3m., or if a caregiver specified in s. 48.685(1)(ag) 1.a. or a nonclient resident, as defined in s. 48.685(1)(bm), of the child care center is convicted or adjudicated delinquent for committing a serious crime on or after his or her 12th birthday, the department shall revoke the license of the child care center immediately upon providing written notice of revocation and the grounds for revocation and an explanation of the process for appealing the revocation.

(b) If a person who has been issued a license under s. 48.66(1)(a) or a probationary license under s. 48.69 to operate a child care center is the subject of a pending criminal charge alleging that the person has committed a serious crime, as defined in s. 48.685(1)(c) 3m., or if a caregiver specified in s. 48.685(1)(ag) 1.a. or a nonclient resident, as defined in s. 48.685(1)(bm), of the child care center is the subject of a pending criminal charge or delinquency petition alleging that the person has committed a serious crime on or after his or her 12th birthday, the department shall immediately suspend the license of the child care center until the department obtains information regarding the final disposition of the charge or delinquency petition indicating that the person is not ineligible to be licensed to operate a child care center.

(4m)(a) For a revocation under sub. (4)(a) or (d), the department shall provide to the licensee written notice of the revocation and the grounds for revocation not less than 30 days before the date of the revocation. The revocation will take effect only if the violation on which the revocation is based remains substantially uncorrected at the end of the 30-day notice period.

(b) For revocations under sub. (4)(b), (c) or (e), the department may revoke the license or probationary license immediately upon written notice to the licensee of the revocation and the grounds for revocation.

(5) The department may deny a license under s. 48.66(1)(a) or a probationary license under s. 48.69 to any person who has had a license under s. 48.66(1)(a) or a probationary license under s. 48.69 revoked within the previous 5 years.

(6) The department shall deny, suspend, restrict, refuse to renew, or otherwise withhold a license under s. 48.66(1)(a) or a probationary license under s. 48.69 to operate a child welfare agency, group home, shelter care facility, or child care center, and the department of corrections shall deny, suspend, restrict, refuse to renew, or otherwise withhold a license under s. 48.66(1)(b) to operate a secured residential care center for children and youth, for failure of the applicant or licensee to pay court-ordered payments of child or family support, maintenance, birth expenses, medical expenses, or other expenses related to the support of a child or former spouse or for failure of the applicant or licensee to comply, after appropriate notice, with a subpoena or warrant issued by the department or a county child support agency under s. 59.53(5) and related to paternity or child support proceedings, as provided in a memorandum of understanding entered into under s. 49.857. Notwithstanding s. 48.72, an action taken under this subsection is subject to review only as provided in the memorandum of understanding entered into under s. 49.857 and not as provided in s. 48.72.

(7) The department shall deny an application for the issuance or continuation of a license under s. 48.66(1)(a) or a probationary license under s. 48.69 to operate a child welfare agency, group home, shelter care facility, or child care center, or revoke such a license already issued, if the department of revenue certifies under s. 73.0301 that the applicant or licensee is liable for delinquent taxes or if the department of workforce development certifies under s. 108.227 that the applicant or licensee is liable for delinquent unemployment insurance contributions. An action

taken under this subsection is subject to review only as provided under s. 73.0301(5) or 108.227(5) and not as provided in s. 48.72.

48.72 Appeal procedure. [2005] Except as provided in s. 48.715(6) and (7), any person aggrieved by the department's refusal or failure to issue, renew, or continue a license or by any action taken by the department under s. 48.715 has the right to an administrative hearing provided for contested cases in ch. 227. To receive an administrative hearing under ch. 227, the aggrieved person shall send to the department a written request for a hearing under s. 227.44 within 10 days after the date of the department's refusal or failure to issue, renew, or continue a license or the department's action taken under s. 48.715. The department shall hold an administrative hearing under s. 227.44 within 30 days after receipt of the request for the administrative hearing unless the aggrieved person consents to an extension of that time period. Judicial review of the department's decision may be had by any party in the contested case as provided in ch. 227.

48.73 Inspection of licensees. [2009] The department may visit and inspect each child welfare agency, foster home, group home, and child care center licensed by the department, and for that purpose shall be given unrestricted access to the premises described in the license.

48.735 Immunization requirements; child care centers. [2009] The department, after notice to a child care center licensee, may suspend, revoke, or refuse to continue a child care center license in any case in which the department finds that there has been a substantial failure to comply with the requirements of s. 252.04.

48.737 Lead screening, inspection and reduction requirements; child care centers. [2009] The department, after notice to a child care provider certified under s. 48.651, or a child care center that holds a license under s. 48.65 or a probationary license under s. 48.69, may suspend, revoke, or refuse to renew or continue a license or certification in any case in which the department finds that there has been a substantial failure to comply with any rule promulgated under s. 254.162, 254.168, or 254.172.

48.74 Authority of department to investigate alleged violations. [1979] Whenever the department is advised or has reason to believe that any person is violating any of the provisions of ss. 48.60, 48.62, 48.625 or 48.65, it shall make an investigation to determine the facts. For the purposes of this investigation, it shall have authority to inspect the premises where the violation is alleged to occur. If it finds that the person is violating any of the specified sections, it may either issue a license if the person is qualified or may institute a prosecution under s. 48.76.

48.76 Penalties. [1993] In addition to the sanctions and penalties provided in s. 48.715, any person who violates s. 48.60, 48.62, 48.625, 48.63 or 48.65 may be fined not more than \$500 or imprisoned for not more than one year in county jail or both.

48.77 Injunction against violations. [1979] In addition to the penalties provided in s. 48.76, the circuit courts shall have jurisdiction to prevent and restrain by injunction violations of s. 48.60, 48.62, 48.625, 48.63 or 48.65. It shall be the duty of the district attorneys, upon request of the department, to institute action for such injunction under ch. 813.

48.78 Confidentiality of records. [2015]

(1) DEFINITION. In this section, unless otherwise qualified, "agency" means the department, a county department, a licensed child welfare agency, or a licensed child care center.

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(2)(a) No agency may make available for inspection or disclose the contents of any record kept or information received about an individual who is or was in its care or legal custody, except as provided under sub.(2)m) or s. 48.371, 48.38(5)(b) or (d) or (5m)(d), 48.396(3)(bm) or (c) 1r., 48.432, 48.433, 48.48(17)(bm), 48.57(2m), 48.93, 48.981(7), 938.396(2m)(c) 1r., 938.51, or 938.78 or by order of the court.

(ag) Paragraph (a) does not prohibit an agency from making available for inspection or disclosing the contents of a record, upon the request of the parent, guardian, or legal custodian of the child who is the subject of the record or upon the request of the child, if 14 years of age or over, to the parent, guardian, legal custodian, or child, unless the agency determines that inspection of the record by the child, parent, guardian, or legal custodian would result in imminent danger to anyone.

(aj) Paragraph (a) does not prohibit an agency from making available for inspection or disclosing the contents of a record, upon the request of a parent, guardian, or legal custodian of a child expectant mother of an unborn child who is the subject of the record, upon the request of an expectant mother of an unborn child who is the subject of the record, if 14 years of age or over, or upon the request of an unborn child's guardian ad litem, to the parent, guardian, legal custodian, expectant mother, or unborn child's guardian ad litem, unless the agency determines that inspection of the record by the parent, guardian, legal custodian, expectant mother, or unborn child's guardian ad litem would result in imminent danger to anyone.

(am) Paragraph (a) does not prohibit an agency from making available for inspection or disclosing the contents of a record, upon the written permission of the parent, guardian, or legal custodian of the child who is the subject of the record or upon the written permission of the child, if 14 years of age or over, to the person named in the permission if the parent, guardian, legal custodian, or child specifically identifies the record in the written permission, unless the agency determines that inspection of the record by the person named in the permission would result in imminent danger to anyone.

(ap) Paragraph (a) does not prohibit an agency from making available for inspection or disclosing the contents of a record, upon the written permission of the parent, guardian, or legal custodian of a child expectant mother of an unborn child who is the subject of the record, or of an expectant mother of an unborn child who is the subject of the record, if 14 years of age or over, and of the unborn child's guardian ad litem, to the person named in the permission if the parent, guardian, legal custodian, or expectant mother, and unborn child's guardian ad litem, specifically identify the record in the written permission, unless the agency determines that inspection of the record by the person named in the permission would result in imminent danger to anyone.

(b) Paragraph (a) does not apply to the confidential exchange of information between an agency and another social welfare agency, a law enforcement agency, a health care provider, as defined in s. 146.81(1)(a) to (p), a public school, or a private school regarding an individual in the care or legal custody of the agency. A social welfare agency that obtains information under this paragraph shall keep the information confidential as required under this section and s. 938.78. A law enforcement agency that obtains information under this paragraph shall keep the information confidential as required under ss. 48.396(1) and 938.396(1)(a). A health care provider that obtains information under this paragraph shall keep the information confidential as provided under s. 146.82. A public school that obtains information under this paragraph shall keep the information confidential as required under s. 118.125, and a private school that obtains information under this paragraph shall keep the information confidential in the same manner as is required of a public school under s. 118.125. Paragraph (a) does not apply to the confidential exchange of information between an agency and officials of a

tribal school regarding an individual in the care or legal custody of the agency if the agency determines that enforceable protections are provided by a tribal school policy or tribal law that requires tribal school officials to keep the information confidential in a manner at least as stringent as is required of a public school official under s. 118.125.

(c) Paragraph (a) does not prohibit the department or a county department from using in the media a picture or description of a child in the guardianship of the department or a county department for the purpose of finding adoptive parents for that child.

(d) Paragraph (a) does not prohibit the department of health services or a county department from disclosing information about an individual formerly in the legal custody or under the supervision of that department under s. 48.34(4m), 1993 stats., or formerly under the supervision of that department or county department under s. 48.34(4n), 1993 stats., to the department of corrections, if the individual is at the time of disclosure any of the following:

1. The subject of a presentence investigation under s. 972.15.
2. Under sentence to the Wisconsin state prisons under s. 973.15.
4. On probation to the department of corrections under s. 973.09.
5. On parole under s. 302.11 or ch. 304 or on extended supervision under s. 302.113 or 302.114.

(e) Notwithstanding par. (a), an agency shall, upon request, disclose information to authorized representatives of the department of corrections, the department of health services, the department of justice, or a district attorney for use in the prosecution of any proceeding or any evaluation conducted under ch. 980, if the information involves or relates to an individual who is the subject of the proceeding or evaluation. The court in which the proceeding under ch. 980 is pending may issue any protective orders that it determines are appropriate concerning information made available or disclosed under this paragraph. Any representative of the department of corrections, the department of health services, the department of justice, or a district attorney may disclose information obtained under this paragraph for any purpose consistent with any proceeding under ch. 980.

(g) Paragraph (a) does not prohibit an agency from disclosing information about an individual in its care or legal custody on the written request of the department of safety and professional services or of any interested examining board or affiliated credentialing board in that department for use in any investigation or proceeding relating to any alleged misconduct by any person who is credentialed or who is seeking credentialing under ch. 448, 455 or 457. Unless authorized by an order of the court, the department of safety and professional services and any examining board or affiliated credentialing board in that department shall keep confidential any information obtained under this paragraph and may not disclose the name of or any other identifying information about the individual who is the subject of the information disclosed, except to the extent that redisclosure of that information is necessary for the conduct of the investigation or proceeding for which that information was obtained.

(h) Paragraph (a) does not prohibit the department, a county department, or a licensed child welfare agency from entering the content of any record kept or information received by the department, county department, or licensed child welfare agency into the statewide automated child welfare information system established under s. 48.47(7g) or the department from transferring any information maintained in that system to the court under s. 48.396(3)(bm). If the department transfers that information to the court, the court and the director of state courts may allow access to that information as provided in s. 48.396(3)(c) 2.

(j) Paragraph (a) does not prohibit an agency from disclosing information to any public or private agency in this state or any

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other state that is investigating a person for purposes of licensing the person to operate a foster home or placing a child for adoption in the home of the person.

(k) Paragraph (a) does not prohibit the department of children and families from providing to the department of revenue, upon request, information concerning a recipient of payments under s. 48.57(3m) or (3n) or aid under s. 48.645, including information contained in the electronic records of the department of children and families, solely for the purposes of administering state taxes, including verifying a claim for a state tax refund or a refundable state tax credit, and collecting debts owed to the department of revenue. Any information obtained by the department of revenue under this paragraph is subject to the confidentiality provisions specified in s. 71.78.

48.981 Abused or neglected children and abused unborn children. [2015]**(2) PERSONS REQUIRED TO REPORT.**

(a) Any of the following persons who has reasonable cause to suspect that a child seen by the person in the course of professional duties has been abused or neglected or who has reason to believe that a child seen by the person in the course of professional duties has been threatened with abuse or neglect and that abuse or neglect of the child will occur shall, except as provided under subs. (2m) and (2r), report as provided in sub. (3):

13. A public assistance worker, including a financial and employment planner, as defined in s. 49.141(1)(d).

18. A child care worker in a child care center, group home, or residential care center for children and youth.

19. A child care provider.

(e) No person making a report under this subsection in good faith may be discharged from employment, disciplined or otherwise discriminated against in regard to employment, or threatened with any such treatment for so doing.

(3) REPORTS; INVESTIGATION.

(a) Referral of report.

1. A person required to report under sub. (2) shall immediately inform, by telephone or personally, the county department or, in a county having a population of 750,000 or more, the department or a licensed child welfare agency under contract with the department or the sheriff or city, village, or town police department of the facts and circumstances contributing to a suspicion of child abuse or neglect or of unborn child abuse or to a belief that abuse or neglect will occur.

(4) **IMMUNITY FROM LIABILITY.** Any person or institution participating in good faith in the making of a report, conducting an investigation, ordering or taking of photographs or ordering or performing medical examinations of a child or of an expectant mother under this section shall have immunity from any liability, civil or criminal, that results by reason of the action. For the purpose of any proceeding, civil or criminal, the good faith of any person reporting under this section shall be presumed. The immunity provided under this subsection does not apply to liability for abusing or neglecting a child or for abusing an unborn child.

(6) **PENALTY.** Whoever intentionally violates this section by failure to report as required may be fined not more than \$1,000 or imprisoned not more than 6 months or both.

73.0301 License denial, nonrenewal, discontinuation, suspension and revocation based on tax delinquency. [2015]**(2) DUTIES AND POWERS OF LICENSING DEPARTMENTS.**

(a) Each licensing department and the supreme court, if the supreme court agrees, shall enter into a memorandum of understanding with the department of revenue under sub. (4)(a) that requires the licensing department or supreme court to do all of the following:

1. Request the department of revenue to certify whether an applicant for a license or license renewal or continuation is liable for delinquent taxes. With respect to an applicant for a license granted by a credentialing board, the department of safety and professional services shall make a request under this subdivision. This subdivision does not apply to the department of transportation with respect to licenses described in sub. (1)(d) 7.

2. Request the department of revenue to certify whether a license holder is liable for delinquent taxes. With respect to a holder of a license granted by a credentialing board, the department of safety and professional services shall make a request under this subdivision.

(b) Each licensing department and the supreme court, if the supreme court agrees, shall do all of the following:

1. a. If, after a request is made under par. (a)1. or 2., the department of revenue certifies that the license holder or applicant for a license or license renewal or continuation is liable for delinquent taxes, revoke the license or deny the application for the license or license renewal or continuation. The department of transportation may suspend licenses described in sub. (1)(d) 7. in lieu of revoking those licenses. A suspension, revocation or denial under this subd. 1. a. is not subject to administrative review or, except as provided in subd. 2. and sub. (5)(am), judicial review. With respect to a license granted by a credentialing board, the department of safety and professional services shall make a revocation or denial under this subd. 1. a. With respect to a license to practice law, the department of revenue shall not submit a certification under this subd. 1. a. to the supreme court until after the license holder or applicant has exhausted his or her remedies under sub. (5)(a) and (am) or has failed to make use of such remedies.

b. Mail a notice of suspension, revocation or denial under subd. 1. a. to the license holder or applicant. The notice shall include a statement of the facts that warrant the suspension, revocation or denial and a statement that the license holder or applicant may, within 30 days after the date on which the notice of denial, suspension or revocation is mailed, file a written request with the department of revenue to have the certification of tax delinquency on which the suspension, revocation or denial is based reviewed at a hearing under sub. (5)(a). With respect to a license granted by a credentialing board, the department of safety and professional services shall mail a notice under this subd. 1. b. With respect to a license to practice law, the department of revenue shall mail a notice under this subd. 1. b. and the notice shall indicate that the license holder or applicant may request a hearing under sub. (5)(a) and (am) and that the department of revenue shall submit a certificate of delinquency to suspend, revoke, or deny a license to practice law to the supreme court after the license holder or applicant has exhausted his or her remedies under sub. (5)(a) and (am) or has failed to make use of such remedies. A notice sent to a person who holds a license to practice law or who is an applicant for a license to practice law shall also indicate that the department of revenue may not submit a certificate of delinquency to the supreme court if the license holder or applicant pays the delinquent tax in full or enters into an agreement with the department of revenue to satisfy the delinquency.

2. Except as provided in subd. 2m., if notified by the department of revenue that the department of revenue has affirmed a certification of tax delinquency after a hearing under sub. (5)(a), affirm a suspension, revocation or denial under subd. 1. a. A license holder or applicant may seek judicial review under ss. 227.52 to 227.60, except that the review shall be in the circuit court for Dane County, of an affirmation of a revocation or denial under this subdivision. With respect to a license granted by a credentialing board, the department of safety and professional services shall make an affirmation under this subdivision.

2m. With respect to a license to practice law, if notified by the department of revenue that the department of revenue has

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affirmed a certification of tax delinquency after any requested review under sub. (5)(a) and (am), decide whether to suspend, revoke, or deny a license to practice law.

3. If a person submits a nondelinquency certificate issued under sub. (5)(b)1., reinstate the license or grant the application for the license or license renewal or continuation, unless there are other grounds for suspending or revoking the license or for denying the application for the license or license renewal or continuation. If reinstatement is required under this subdivision, a person is not required to submit a new application or other material or to take a new test. No separate fee may be charged for reinstatement of a license under this subdivision. With respect to a license granted by a credentialing board, the department of safety and professional services shall reinstate a license or grant an application under this subdivision.

4. If a person whose license has been suspended or revoked or whose application for a license or license renewal or continuation has been denied under subd. 1. a. submits a nondelinquency certificate issued under sub. (3)(a)2., reinstate the license or grant the person's application for the license or license renewal or continuation, unless there are other grounds for not reinstating the license or for denying the application for the license or license renewal or continuation. With respect to a license granted by a credentialing board, the department of safety and professional services shall reinstate a license or grant an application under this subdivision.

(c) 1. Each licensing department and the supreme court may require a holder of a license to provide the following information upon request:

a. If the license holder is an individual and has a social security number, the license holder's social security number.

am. If the applicant is an individual and does not have a social security number, a statement made or subscribed under oath or affirmation that the applicant does not have a social security number. The form of the statement shall be prescribed by the department of children and families. A license issued in reliance upon a false statement submitted under this subd. 1. am. is invalid.

b. If the license holder is not an individual, the license holder's federal employer identification number.

2. A licensing department may not disclose any information received under subd. 1. a. or b. to any person except to the department of revenue for the purpose of requesting certifications under par. (a)1. or 2. in accordance with the memorandum of understanding under sub. (4) and administering state taxes, to the department of workforce development for the purpose of requesting certifications under s. 108.227(2)(a)1. or 2. in accordance with the memorandum of understanding under s. 108.227(4) and administering the unemployment insurance program, and to the department of children and families for the purpose of administering s. 49.22.

(5) HEARING.

(a) The department of revenue shall conduct a hearing requested by a license holder or applicant for a license or license renewal or continuation under sub. (2)(b)1. b. or by an applicant for certification or recertification or a certificate holder under s. 73.03(50) or 73.09(7m)(b) to review a certification or determination of tax delinquency that is the basis of a denial or revocation of a license in accordance with this section or of a certificate, certification or recertification under s. 73.03(50) or 73.09(7m). A hearing under this paragraph is limited to questions of mistaken identity of the license or certificate holder or applicant and of prior payment of the delinquent taxes for which the department of revenue certified or determined the license or certificate holder or applicant is liable. At a hearing under this paragraph, any statement filed by the department of revenue, the licensing department or the supreme court, if the supreme court agrees, may be admitted into evidence and is prima facie evidence of the facts that it contains. Notwithstanding ch. 227, a person

entitled to a hearing under this paragraph is not entitled to any other notice, hearing or review, except as provided in par. (am) and sub. (2)(b) 2.

(am) If a person who holds a license to practice law or who is an applicant for a license to practice law receives a hearing under par. (a) to review a certification or determination of tax delinquency that is the basis for a denial, suspension, or revocation of a license to practice law and such certification or determination is affirmed as a result of the hearing under par. (a), the person may seek judicial review of the certification or determination of tax delinquency under ss. 227.52 to 227.60, except that the review shall be in the circuit court for Dane County.

(b) After a hearing conducted under par. (a) or, in the case of a determination related to a license to practice law, after a hearing under par. (a) or, if the hearing is appealed, after judicial review under par. (am), the department of revenue shall do one of the following:

1. Issue a nondelinquency certificate to a license holder or an applicant for a license or license renewal or continuation if the department determines that the license holder or applicant is not liable for delinquent taxes. For a hearing requested by an applicant for certification or recertification or a certificate holder under s. 73.03(50) or 73.09(7m)(b), the department shall grant a certification or recertification or reinstate a certification if the department determines that the applicant or certificate holder is not liable for delinquent taxes, unless there are other grounds for denying the application or revoking the certification.

2. Provide notice that the department of revenue has affirmed its certification of tax delinquency to a license holder; to an applicant for a license, a license renewal or a license continuation; and to the licensing department or the supreme court, if the supreme court agrees. For a hearing requested by an applicant for certification or recertification or a certificate holder under s. 73.03(50), or 73.09(7m)(b), the department of revenue shall provide notice to the applicant or certificate holder that the department of revenue has affirmed its determination of tax delinquency.

101.123 Smoking prohibited. [2015]**(2) PROHIBITION AGAINST SMOKING.**

(a) Except as provided in sub. (3), no person may smoke in any of the following enclosed places:

1r. Child care centers.

8d. Common areas of multiple-unit residential properties.

(d) No person may smoke at any of the following outdoor locations:

2. Anywhere on the premises of a child care center when children who are receiving child care services are present.

(8) PENALTIES.

(d) Except as provided in par. (dm) or (em), any person in charge who violates sub. (2m)(b) to (d) shall be subject to a forfeiture of \$100 for each violation.

253.15 Shaken baby syndrome and impacted babies. [2015]**(4) Training for child care providers.**

(a) Before an individual may obtain a license to operate a child care center under s. 48.65 for the care and supervision of children under 5 years of age or enter into a contract to provide a child care program under s. 120.13(14) for the care and supervision of children under 5 years of age, the individual shall receive training relating to shaken baby syndrome and impacted babies that is approved or provided by the department or that is provided by a nonprofit organization arranged by the department to provide that training.

(c) Before an employee or volunteer of a child care center licensed under s. 48.65, a child care provider certified under s. 48.651, or a child care program established under s. 120.13(14)

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may provide care and supervision for children under 5 years of age, the employee or volunteer shall receive training relating to shaken baby syndrome and impacted babies that is approved or provided by the department or the certifying county department or agency contracted with under s. 48.651(2) or that is provided by a nonprofit organization arranged by the department or that county department or contracted agency to provide that training.

347.48 Safety belts and child safety restraint systems. [2011]**(4) CHILD SAFETY RESTRAINT SYSTEMS REQUIRED; STANDARDS; EXEMPTIONS.**

(ag) In this subsection:

1. "Child booster seat" means a child passenger restraint system that meets the applicable federal standards under 49 CFR 571.213 and is designed to elevate a child from a vehicle seat to allow the vehicle's safety belt to be properly positioned over the child's body.

2. "Designated seating position" has the meaning given in 49 CFR 571.3.

3. "Properly restrained" means any of the following:

a. With respect to par. (as) 1. and 2., fastened in a manner prescribed by the manufacturer of the child safety restraint system which permits the system to act as a body restraint but does not include a system in which the only body restraint is a safety belt of the type required under sub. (1).

b. With respect to par. (as) 3., wearing a safety belt consisting of a combination lap belt and shoulder harness approved by the manufacturer under sub. (2) and fastened in a manner prescribed by the manufacturer of the safety belt so that the safety belt properly fits across the child's lap and the center of the child's chest in a manner appropriate to the child's height, weight, and age that permits the safety belt to act as a body restraint.

c. With respect to par. (as) 4., fastened in a manner prescribed by the manufacturer of the system which permits the system to act as a body restraint.

(am) No person may transport a child under the age of 8 in a motor vehicle unless the child is restrained in compliance with par. (as) in a safety restraint system that is appropriate to the child's age and size and that meets the standards established by the department under this paragraph. The department shall, by rule, establish standards in compliance with applicable federal standards, including standards under 49 CFR 571.213, for child safety restraint systems.

(as) A child under the age of 8 years who is being transported in a motor vehicle shall be restrained as follows:

1. If the child is less than one year old or weighs less than 20 pounds, the child shall be properly restrained in a rear-facing child safety restraint system, positioned at a designated seating position in a back passenger seat of the vehicle if the vehicle is equipped with a back passenger seat.

2. Subject to subd. 1., if the child is at least one year old and weighs at least 20 pounds but is less than 4 years old or weighs less than 40 pounds, the child shall be properly restrained as provided in subd. 1. or properly restrained in a forward-facing child safety restraint system, positioned at a designated seating position in a back passenger seat of the vehicle if the vehicle is equipped with a back passenger seat.

3. Subject to subds. 1. and 2., if the child is at least 4 years old but less than 8 years old, weighs at least 40 pounds but not more than 80 pounds, and is not more than 57 inches in height, the child shall be properly restrained as provided in subd. 2. or properly restrained in a child booster seat.

4. Subject to subds. 1. to 3., if the child is less than 8 years old, the child shall be properly restrained as provided in subds. 1. to 3. or properly restrained in a safety belt approved by the department under sub. (2).

(b) The department may, by rule, exempt from the requirements under pars. (am) and (as) any child who because of a physical or medical condition or body size cannot be placed in a child safety restraint system, child booster seat, or safety belt.

(c) This subsection does not apply if the motor vehicle is a motor bus, school bus, taxicab, moped, motorcycle or is not required to be equipped with safety belts under sub. (1) or 49 CFR 571.

(d) Evidence of compliance or failure to comply with pars. (am) and (as) is admissible in any civil action for personal injuries or property damage resulting from the use or operation of a motor vehicle but failure to comply with pars. (am) and (as) does not by itself constitute negligence.

948.53 Child unattended in child care vehicle. [2009]

(1) DEFINITIONS. In this section:

(a) "Child care provider" means a child care center that is licensed under s. 48.65(1), a child care provider that is certified under s. 48.651, or a child care program that is established or contracted for under s. 120.13(14).

(b) "Child care vehicle" means a vehicle that is owned or leased by a child care provider or a contractor of a child care provider and that is used to transport children to and from the child care provider.

(2) NO CHILD LEFT UNATTENDED.

(a) No person responsible for a child's welfare while the child is being transported in a child care vehicle may leave the child unattended at any time from the time the child is placed in the care of that person to the time the child is placed in the care of another person responsible for the child's welfare.

(b) Any person who violates par. (a) is guilty of one of the following:

1. A Class A misdemeanor.
2. A Class I felony if bodily harm is a consequence.
3. A Class H felony if great bodily harm is a consequence.
4. A Class G felony if death is a consequence.

DEPARTMENT OF CHILDREN AND FAMILIES
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DCF 12 CAREGIVER BACKGROUND CHECKS

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DCF 12.01 Purpose and scope.

(1) This chapter is promulgated under the authority of ss. 48.67 (intro.), 48.685, 49.155(1d), and 227.11(2)(a), Stats., to specify procedures necessary to implement background checks required under s. 48.685, Stats., for caregivers and nonclient residents at an entity or with a caregiver specified in s. DCF 12.02(4)(c).

Note: For further information on the scope of the caregiver background check, see s. DCF 12.02 for definitions of terms used in this subsection.

(2) Sections DCF 12.05 to 12.08 do not apply to an entity that facilitates delegations of the care and custody of children under s. 48.979, Stats., unless the entity is also licensed by the department.

Note: The department recommends that an unlicensed entity voluntarily comply with relevant provisions in ss. DCF 12.05, 12.06, and 12.08.

History: CR 16-014; cr. Register June 2016 No. 726, eff. 7-1-16.

DCF 12.02 Definitions. In this chapter:

(1) "Agency" means the department, a county department, a certification agency, a child-placing agency, or a school board that establishes or contracts for a child care program under s. 120.13(14), Stats.

(2) "Background information disclosure" means the form prescribed by the department on which a person provides information for purposes of the caregiver background check.

Note: DCF-F-2978-E, Background Information Disclosure, is available in the forms section of the department's website at <http://dcf.wisconsin.gov> or from an agency or entity.

(3) "Bar" means any of the following:

(a) A barrier to a person's eligibility for regulatory approval, employment, or contract as a caregiver.

(b) A barrier to a person's nonclient residency at an entity or with a caregiver specified in s. DCF 12.02(4)(c).

(4) "Caregiver" means any of the persons specified in s. 48.685(1)(ag), Stats., and any of the following:

(a) A person who has, or is seeking, regulatory approval.

(b) A person who is, or is expected to be, an employee, a temporary employee, a student participating in a clinical or practicum at an entity as part of his or her curriculum, or a contractor of an entity if all of the following apply:

1. The person is, or is expected to be, under the control of the entity.

2. The person has, or is expected to have, regular, direct contact with clients of the entity.

(c) A person to whom delegation of the care and custody of a child under s. 48.979, Stats., has been, or is expected to be, facilitated by an entity.

Note: Section 48.685(1)(ag)2., Stats., provides that "caregiver" does not include an emergency medical technician or a first responder.

(5) "Caregiver background check" means the requirements in s. 48.685, Stats.

(6) "Certification agency" means the department in a

county having a population of 750,000 or more or any county, person, or tribe that has a contract with the department to certify child care providers under s. 48.651(2), Stats., in a particular county or tribal area.

(7) "Child-placing agency" means a person that is licensed under ch. DCF 54.

Note: A child-placing agency is an entity and may also be an agency. A tribe may be licensed as a child-placing agency under ch. DCF 54 or may provide similar services under tribal law.

(8) "Client" means a person who receives direct care or treatment services from an entity or from a caregiver specified in s. DCF 12.02(4)(c). "Client" includes all of the following:

(a) An adopted child for whom adoption assistance payments are being made under s. 48.975, Stats.

(b) A child for whom subsidized guardianship payments are being made under s. 48.623, Stats.

(c) A person who is 18 to 21 years old, is receiving independent living services under 42 USC 677(a) from an agency, is no longer placed in out-of-home care, and is residing in the foster home in which he or she was previously placed.

Note: Most types of "clients" are not specified in this definition because the phrase "a person who receives direct care or treatment services from an entity" clearly applies to them. For further information, see the definition of "entity" in s. DCF 12.02(14).

(9) "Contractor" means, with respect to an entity, a person, or that person's agent, who provides services to the entity under an express or implied contract or subcontract. "Contractor" includes a person who has staff privileges at the entity and a person to whom delegation of the care and custody of a child under s. 48.979, Stats., has been facilitated by the entity.

(10) "County department" means a county department of social services established under s. 46.22, Stats., or a county department of human services established under s. 46.23, Stats.

(11) "Department" means the department of children and families.

(12) "Direct contact" means face-to-face physical proximity to a client that affords the opportunity to commit abuse or neglect of a client or to misappropriate the property of a client.

(13) "Division of hearings and appeals" means the division of hearings and appeals within the department of administration.

(14) "Entity" means any of the following:

(a) A residential care center for children and youth that is required to be licensed as a child welfare agency under s. 48.60, Stats., and is licensed under ch. DCF 52 to provide care and maintenance for children and youth in its physical or legal custody.

(b) A child-placing agency.

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- (c) A foster home.
- (d) An interim caretaker who receives subsidized guardianship payments under s. 48.623(6)(am), Stats., and s. DCF 55.12.
- (e) A person who meets all of the following conditions:
1. The person is seeking payments under s. 48.623(6)(bm), Stats.
 2. The person has entered into a subsidized guardianship agreement under s. 48.623(2), Stats., following the death or incapacity of a guardian who had named the person as a prospective successor guardian.
 3. The person has not been appointed as a successor guardian by a court under s. 48.977(5m), Stats.
- (f) A group home that is required to be licensed under s. 48.625, Stats., and is licensed under ch. DCF 57.
- (g) A shelter care facility licensed under s. 938.22, Stats., and ch. DCF 59.
- (h) A child care center that is licensed under s. 48.66, Stats.
- (i) A child care provider that is certified under s. 48.651, Stats.
- (j) A child care program established or contracted for under s. 120.13(14), Stats.
- (k) A temporary employment agency that provides caregivers to another entity.
- (L) An organization that facilitates delegations of the care and custody of children under s. 48.979, Stats., except as provided in s. DCF 12.01(2).
- (m) Any other entity included in s. 48.685(1)(b), Stats.
- Note: See s. 48.57(3p), Stats., for information on background checks required for kinship care.
- (15)** “Final substantiated finding” means all of the following:
- (a) A final determination made after January 1, 2015, that a person has abused or neglected a child under s. 48.981(3)(c) 5m., Stats., and s. DCF 40.04 if the final determination has not been reversed or modified on appeal.
 - (b) A determination made before January 1, 2015, that a person has abused or neglected a child under s. 48.981(3)(c)4., 2011 Stats., if the determination has not been reversed or modified on appeal.
- Note: The date in a statutory citation means that was the last edition of the statutes in which that provision appears.
- (16)** “Foster home” means a facility operated by a person who is required to be licensed under s. 48.62, Stats., and is licensed under ch. DCF 56, including a home operated by a person seeking adoption assistance under s. 48.975, Stats., and a home operated by a person seeking subsidized guardianship payments under s. 48.623, Stats.
- (17)** “Home study” means an assessment to determine whether an applicant is fit and qualified to care for a child and whether the physical environment of the applicant’s home is safe and healthy for all occupants.
- (18)** “Nonclient resident” means a person who meets all of the following criteria:
- (a) The person is 12 years of age or over.
 - (b) The person resides, or is expected to reside, at an entity or with a caregiver specified in s. DCF 12.02(4)(c).
 - (c) The person is not a client of the entity or of the caregiver specified in s. DCF 12.02(4)(c).
 - (d) The person has, or is expected to have, regular, direct contact with clients of the entity or of the caregiver specified in s. DCF 12.02(4)(c).
- Note: Examples of “nonclient residents” include household members in foster homes, family child care centers, and certified child care homes.
- (19)** “Person” has the meaning specified in s. 990.01(26), Stats.
- Note: Section 990.01(26), Stats., provides that “person” includes all partnerships, associations and bodies politic or corporate.
- (20)** “Regular, direct contact with clients” means contact that is scheduled, planned, expected, or otherwise a result of the person’s role or relationship with the client.
- (21)** “Regulatory approval” means any of the following:
- (a) Issuance, continuation, or renewal of a license by the department under s. 48.66, Stats.
 - (b) Issuance or renewal of a license to operate a foster home by the department, a county department, or a child-placing agency under s. 48.75, Stats.
 - (c) Issuance or renewal of certification by a certification agency under s. 48.651, Stats.
 - (d) Approval of the person subject to the caregiver background check for a child care program to be established or contracted for by a school board under s. 120.13(14), Stats.
 - (e) Approval of a person to be an interim caretaker who receives subsidized guardianship payments under s. 48.623(6)(am), Stats., and s. DCF 55.12.
 - (f) Approval of a person who is seeking to be a successor guardian and to receive subsidized guardianship payments under s. 48.623(6)(bm), Stats.
 - (g) Approval of pre-adoptive applicants for a home study for the purpose of adopting a child.
 - (h) Approval of a home study by the department, a county department, a child-placing agency, or a tribe for a person seeking adoption assistance under s. 48.975, Stats.
- (22)** “Rehabilitation review” means an agency process under which a person who has a bar may seek approval for any of the following:
- (a) Regulatory approval.
 - (b) Employment or contract with an entity to be a caregiver for the entity.
 - (c) Residency at an entity or with a caregiver specified in s. DCF 12.02(4)(c).
- (23)** “School board” means the board that has the powers specified in s. 120.13, Stats., for the schools of a school district.
- (24)** “Serious crime” means the offenses specified in s. 48.685(c), Stats., and all of the following:
- (a) The offenses specified in s. 48.685(5)(bm), Stats., if any of the following apply:
 1. The affected entity is a foster home.
 2. The affected person is an interim caretaker who is receiving, or is seeking, subsidized guardianship payments under s. 48.623(6)(am), Stats., and s. DCF 55.12.
 3. The affected person is seeking payment under s. 48.623(6)(bm), Stats.
 4. The subject of the background check is seeking regulatory approval of a home study under sub. (21)(g) or (h) or is a nonclient resident of a person seeking regulatory approval of a home study.
 - (b) For entities and approvals specified in par. (a)1., 2., and 3., “serious crime” includes the offenses specified in s. 48.685(5)(bm) ., Stats., after the waiting period for eligibility to demonstrate rehabilitation, unless the person has demonstrated rehabilitation under s. DCF 12.13 or 12.14. This paragraph applies to all of the following:
 1. A person seeking regulatory approval to be a caregiver specified in s. DCF 12.02(4)(a) on or after July 1, 2016 if the regulatory approval is not a continuation or renewal of an approval the person has on July 1, 2016.
 2. A person seeking employment or a contract to be a caregiver specified in s. DCF 12.02(4)(b) with an entity on

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or after July 1, 2016 if the person is not employed or contracted as a caregiver with that same entity on July 1, 2016.

3. A person seeking nonclient residency at an entity if the person is not a nonclient resident at that entity on July 1, 2016.

(c) For a child care center that is licensed under s. 48.66, Stats.; a child care provider that is certified under s. 48.651, Stats.; and a child care program established or contracted for under s. 120.13(14), Stats., “serious crime” includes the offenses specified in s. 48.685(5)(br)6. and 7., Stats., after the waiting period for eligibility to demonstrate rehabilitation, unless a person has demonstrated rehabilitation under s. DCF 12.13 or 12.14. This paragraph applies to the persons specified in par. (b)1., 2., and 3.

Note: Tables that list serious crimes applicable to each program are available in the program regulatory sections of the department website at <http://dcf.wisconsin.gov>.

For group homes, residential care centers, child-placing agencies, and shelter facilities, see the child welfare licensing/background checks section of the department website.

For foster homes, adoption home studies, adoption assistance, and subsidized guardianship, see the foster care/related statutes and administrative rules section of the department website.

For child care, see the child care regulation/child care licensing or child care certification sections of the department website.

(25) “Tribe” means a federally-recognized American Indian tribe or band in this state.

(26) “Under the control of the entity” means that an entity does all of the following:

(a) Determines whether a person who is employed by or under express or implied contract with the entity and who has regular, direct contact with clients served by the entity may provide care, treatment, or other similar support service functions to clients.

(b) Directs or oversees one or more of the following:

1. The policies or procedures the person must follow in performing his or her duties.
2. The conditions under which the person performs his or her duties.
3. The tasks the person performs.
4. The person’s work schedule.
5. The supervision or evaluation of the person’s work or job performance, including imposing discipline and rewarding performance.
6. The compensation the person may receive for performing his or her duties.

History: CR 16-014: cr. Register June 2016 No. 726, eff. 7-1-16.

DCF 12.03 Background information disclosure. In this chapter:

(1) **REQUIRED FORM.** Each agency and entity shall use and require use of the background information disclosure prescribed by the department to be completed to obtain information about a person’s background from the person as provided in s. 48.685(6), Stats.

Note: DCF-F-2978-E, Background Information Disclosure, is available in the forms section of the department’s website at <http://dcf.wisconsin.gov> or from an agency or entity.

(2) **CHILD WELFARE ENTITIES.** Each agency and entity specified in s. DCF 12.02(14)(a) to (g) shall require the background information disclosure to be completed by caregivers and nonclient residents no more than 120 days

before the agency or entity submits a request for information required under s. 48.685(2)(am) or (b) and (3)(a) or (b), Stats.

(3) **MAINTAINING CONFIDENTIALITY.** Each agency and entity shall retain all completed department background information disclosures in a manner that ensures prompt retrieval of the forms for inspection and shall comply with applicable federal and state confidentiality laws.

History: CR 16-014: cr. Register June 2016 No. 726, eff. 7-1-16.

DCF 12.04 Contracting for caregiver background checks.

(1) **CONTRACT.** An entity may enter into a contract with any other entity or with a person, temporary employment agency, college, university, or vocational school to obtain the information required under s. 48.685(2), (3), or (6), Stats.

(2) **DOCUMENTATION.**

(a) An entity that enters into a contract under sub. (1) shall retain a copy of the agreement.

(b) An entity that enters into a contract under sub. (1) shall obtain from the entity, person, temporary employment agency, college, university, or vocational school that conducts the search for information required under s. 48.685(2) or (3), Stats., all of the following for each person who is the subject of a search:

1. A copy of the completed background information disclosure if completion of the background information disclosure is required under s. 48.685(6), Stats.

2. The results of the search required under s. 48.685(2) or (3), Stats.

(c) The entity shall retain the most recent documentation received under par. (b) for caregivers that the entity employs or contracts with, so the documentation may be promptly retrieved and reviewed by the agency that regulates the entity.

Note: For child-placing agencies, the record retention period in par. (c) only applies to contracting for background checks of employees and contractors of the agency. Different record retention requirements apply for records on foster parents.

History: CR 16-014: cr. Register June 2016 No. 726, eff. 7-1-16.

DCF 12.05 Obtaining armed forces information.

(1) If a person who is the subject of a caregiver background check served in a branch of the U.S. armed forces within the previous 3 years, including any reserve component, the agency or entity shall make every reasonable effort to obtain the discharge status of that person, either from the discharge papers issued to the person or from the armed forces branch in which the person served.

(2) The agency or entity shall document the efforts made to obtain the discharge status of the person.

(3) If the discharge status of the person is other than honorable, the agency or entity shall obtain information on the nature and circumstances of the discharge.

Note: The information from the armed forces may include relevant military court findings or information relevant to making a determination of whether an applicant is fit and qualified.

History: CR 16-014: cr. Register June 2016 No. 726, eff. 7-1-16.

DCF 12.06 Determining whether other offenses are substantially related.

(1) **CAREGIVERS.** To determine whether a caregiver’s conviction or delinquency adjudication for an offense that is not a serious crime is substantially related to the care of a client or the activities of a program for purposes of s. 48.685(5m), Stats., an agency or entity shall consider all of

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the following:

(a) In relation to the job or caregiving role, all of the following:

1. The nature and scope of the caregiver's client contact.
2. The scope of the discretionary authority and independent judgment the caregiver has to make decisions or take actions that affect the care of clients.
3. The opportunity caregiving presents for committing similar crimes.
4. The extent to which acceptable caregiving performance requires the trust and confidence of clients and the parents or guardians of clients.

5. The amount and type of supervision received.

(b) In relation to the criminal conviction or delinquency adjudication, all of the following:

1. Whether intent is an element of the crime.
2. Whether the elements or circumstances of the crime are related to the job or caregiving duties.
3. Any pattern of criminal convictions or delinquency adjudications
4. The extent to which the crime relates to clients or other vulnerable persons
5. Whether the crime involves violence or a threat of harm
6. Whether the crime is of a sexual nature

(c) In relation to the person, all of the following:

1. The number and type of crimes for which the person has been convicted or adjudicated delinquent.
2. The length of time between the conviction or delinquency adjudication and the decision affecting regulatory approval, employment, or contract.
3. The person's employment history, including references, if available.
4. The person's participation in or completion of pertinent programs of a rehabilitative nature.
5. The person's probation, extended supervision, or parole status.
6. The person's ability to perform or to continue to perform the job or caregiving role consistent with the safe and efficient operation of the program and the confidence of clients and the parents or guardians of clients.
7. The age of the person on the date the crime was committed.

(2) NONCLIENT RESIDENTS. To determine whether a nonclient resident's criminal conviction or delinquency adjudication for an offense that is not a serious crime is substantially related to a nonclient resident's access to clients or the activities of a program for purposes of s. 48.685(5m), Stats., an agency shall consider all of the following:

(a) In relation to nonclient residency, all of the following:

1. The nature and scope of the nonclient resident's contact with clients or activities of the program.
2. The opportunity nonclient residency presents for committing similar crimes.
3. The amount and type of supervision of the nonclient resident.

(b) In relation to the criminal conviction or delinquency adjudication, all of the following:

1. Whether intent is an element of the crime.
2. Whether the elements or circumstances of the crime involve access to clients or activities of the program.
3. Any pattern of criminal convictions or delinquency adjudications.
4. The extent to which the crime relates to clients or other vulnerable persons.
5. Whether the crime involves violence or a threat of harm.
6. Whether the crime is of a sexual nature.

(c) In relation to the person, all of the following:

1. The number and type of crimes for which the person has been convicted or adjudicated delinquent.
2. The length of time between the conviction or delinquency adjudication and the determination affecting nonclient residency.
3. The person's participation in or completion of pertinent programs of a rehabilitative nature.
4. The person's probation, extended supervision, or parole status.
5. The age of the person on the date the crime was committed.

(3) DOCUMENTATION.

(a) An agency shall document how it reached the determination under sub. (1) that the criminal conviction or delinquency adjudication of a caregiver under s. DCF 12.02(4)(a) is or is not substantially related to care of a client or activities of the program.

(b) An agency shall document how it reached the determination under sub. (2) that the criminal conviction or delinquency adjudication of a nonclient resident is or is not substantially related to access to clients or activities of a program.

(c) An entity shall document how it reached a determination under sub. (1) that a criminal conviction or delinquency adjudication of a caregiver specified in s. DCF 12.02(4)(b) is or is not substantially related to the care of a client or activities of a program.

Note: Form DCF-F-CFS2261-E, Caregiver Background Checks Substantially Related Investigation Report, is available, but is optional, for documentation of the determination as required in sub. (3). If a home study is required for foster care licensure, subsidized guardianship, or adoption approval, county departments and child-placing agencies must include documentation of the determination in the home study.

An agency or entity is required to determine whether a criminal conviction or delinquency adjudication for an offense that is not a "serious crime" as defined in s. DCF 12.02(24) is substantially related to the care of children or the activities of the program. It may be helpful to contact the appropriate clerk of court to obtain a copy of the criminal complaint and judgment of conviction as part of that investigation and determination. Section 48.685(2)(bb), Stats., requires an agency or entity to contact the appropriate clerk of court to obtain a copy of the criminal complaint and judgment of conviction for a violation of s. 940.19(1), 940.195, 940.20, 941.30, 942.08, 947.01(1), or 947.013, Stats., if the conviction was within the past 5 years.

A person who was refused employment or who had his or her employment terminated and believes he or she may have been discriminated against, may file a complaint under s. 111.335, Stats., with the Equal Rights Division, Department of Workforce Development, P.O. Box 8928, Madison, WI 53708-8928 or telephone 608-266-6860.

History: CR 16-014: cr. Register June 2016 No. 726, eff. 7-1-16.

DCF 12.07 Child welfare denial and revocation information.

Each county department and child-placing agency shall provide the department with written information about each person for whom the county department or child-placing agency denied or revoked regulatory approval specified in s. DCF 12.02(21)(b), (e), (f), (g), or (h) for a reason specified in s. 48.685(4m), Stats. The county department or child-placing agency shall provide the information in an automation system prescribed by the department or on a

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form prescribed by the department.

Note: County departments and child-placing agencies with direct access to eWiSACWIS, the department's child welfare automation system, enter the information into the system. Child-placing agencies that do not have direct access to eWiSACWIS provide the information on Form DCF-F-CFS2191, Negative Action Notice, which is available in the forms section of the department's website, dcf.wisconsin.gov. Send the completed form to Out-of-Home Care Section, DCF/DSP, P.O. Box 8916, Madison, WI 53708-8916.

History: CR 16-014: cr. Register June 2016 No. 726, eff. 7-1-16.

DCF 12.08 Reporting requirements.

(1) ENTITY REPORTING OF OFFENSE. An entity shall report to the agency that gave regulatory approval as soon as the entity knows, or should have known, that any of the following apply to a caregiver or nonclient resident at the entity:

(a) The person is the subject of a delinquency petition alleging that the person committed a serious crime on or after his or her 12th birthday.

(b) The person has been adjudicated delinquent on or after his or her 12th birthday for committing any crime.

(c) The person is the subject of a pending criminal charge alleging that the person committed a serious crime.

(d) The person has been convicted of any crime.

(e) A final substantiated finding has been made that the person abused or neglected a child.

(f) A finding that is comparable to a final substantiated finding has been made in any other jurisdiction.

(g) A unit of government or a state agency as defined in s. 16.61(2)(d), Stats., made a finding that the person has abused or neglected a client or misappropriated the property of a client.

(h) If a position requires a person to be credentialed by the department of safety and professional services, the person has been denied a credential or had a credential restricted or otherwise limited.

(2) OTHER ENTITY REPORTING.

(a) An entity shall report to the agency that gave regulatory approval as soon as possible, but no later than the agency's next business day, if any of the following occurs:

1. A person who is age 12 or over and is not a client begins residing at, or is expected to reside at, an entity.

2. A person who is residing at the entity and is not a client turns 12 years of age.

3. A nonclient resident turns 18 years of age.

4. A corporation or limited liability company designates a new person to be subject to the caregiver background check.

5. A caregiver under s. DCF 12.02(4)(a) or a nonclient resident at the entity changes his or her name.

(b)1. When a change specified under par. (a) 1. to 4. occurs regarding an entity, the entity shall submit a completed background information disclosure for the new person subject to the caregiver background check to the agency as soon as possible, but no later than the agency's next business day.

2. Notwithstanding par. (a) 3., a nonclient resident in a child care center licensed under s. 48.66, Stats., or with a child care provider certified under s. 48.651, Stats., is not required to complete a background information disclosure if all of the following apply:

a. The nonclient resident is turning, or has recently turned, 18 years of age.

b. The nonclient resident previously submitted a completed background information disclosure to the

department or certification agency.

(3) ENTITY POLICY. An entity shall include in its personnel or operating policies a provision that requires a person who is a caregiver specified in s. DCF 12.02(4)(b) to notify the entity as soon as possible, but no later than the entity's next working day, if any of the following apply:

(a) The person is the subject of a delinquency petition alleging that the person committed a serious crime on or after his or her 12th birthday.

(b) The person has been adjudicated delinquent on or after his or her 12th birthday for committing any crime.

(c) The person is the subject of a pending criminal charge alleging that the person committed a serious crime.

(d) The person has been convicted of any crime.

(e) A final substantiated finding has been made that the person abused or neglected a child.

(f) A finding that is comparable to a final substantiated finding has been made in any other jurisdiction.

(g) A unit of government or a state agency as defined in s. 16.61(2)(d), Stats., has made a finding that the person has abused a client or misappropriated the property of a client.

(h) If a position requires a person to be credentialed by the department of safety and professional services, the person has been denied a credential or had a credential restricted or otherwise limited.

History: CR 16-014: cr. Register June 2016 No. 726, eff. 7-1-16.

DCF 12.09 Sanctions.**(1) ENTITY.**

(a) An entity that commits any of the following acts may be subject to one or more of the sanctions specified in par. (b):

1. Hires, employs, or contracts with a caregiver or permits a nonclient resident to reside at an entity or with a caregiver specified in s. DCF 12.02(4)(c) if the entity knows, or should know, that the caregiver or nonclient resident is barred under s. 48.685(4m)(b) or that a nonclient resident is ineligible for residency under s. 48.685(5m), Stats.

2. Violates any provision in s. 48.685, Stats., or this chapter regarding caregivers specified in s. DCF 12.02(4)(b) or (c), including requiring completion of a background information disclosure as required under s. 48.685(6), and conducting the caregiver background check as required under s. 48.685(2) and (3), Stats.

3.a. Knows, or should know, that a nonclient resident at the entity failed to complete and submit the background information disclosure to the applicable agency as required under s. 48.685(6), Stats., or that a nonclient resident knowingly gave false information on or knowingly omitted information from the background information disclosure submitted to the applicable agency.

b. Knows, or should know, that a nonclient resident of a caregiver specified in s. DCF 12.02(4)(c) failed to complete and submit the background information disclosure to the entity specified in s. DCF 12.02(14)(L) as required under s. 48.685(6), Stats., or that a nonclient resident knowingly gave false information on or knowingly omitted information from the background information disclosure submitted to the entity specified in s. DCF 12.02(14)(L).

4. Fails to complete and submit the background information disclosure to the applicable agency as required under s. 48.685(6), Stats.

5. Knowingly gives false information on or knowingly omits information from the background information disclosure submitted to the applicable agency.

6. Fails to comply with applicable reporting requirements under s. DCF 12.08(1) or (2).

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7. Fails to have a policy on reporting changes as required in s. DCF 12.08(3).

(b) Any of the following sanctions may be imposed on an entity that commits any of the acts described in par. (a):

1. Denial, revocation, nonrenewal, suspension, or termination of regulatory approval.
2. Specific conditions or limitations placed on the regulatory approval.
3. A forfeiture of not more than \$1,000.
4. A requirement that the entity develop a written plan that specifies corrections that will be made to personnel screening practices, obtain agency approval of the correction plan, and implement the correction plan.
5. Attendance at agency-designated training on personnel screening or other appropriate training at entity expense.

(2) **APPLICANT.** An applicant for regulatory approval who does any of the following may be subject to denial of an application for regulatory approval:

- (a) Fails to complete and submit a background information disclosure to the appropriate agency.
- (b) Knowingly provides false information on or knowingly omits information from the background information disclosure submitted to the agency.

History: CR 16-014: cr. Register June 2016 No. 726, eff. 7-1-16.

DCF 12.10 Rehabilitation reviews by agencies.

(1) An agency shall conduct a rehabilitation review for a person who requests a rehabilitation review if the person is eligible under 48.685(5), Stats., and s. DCF 12.11 and is any of the following:

- (a) A person who has, or is seeking, regulatory approval from the agency as a caregiver specified in s. DCF 12.02(4)(a).
- (b) A person who is, or is expected to be, a caregiver specified in s. DCF 12.02(4)(b) for an entity that is regulated by the agency.
- (c) A person who is, or is expected to be, a nonclient resident at an entity that is regulated by the agency.

(2) Notwithstanding sub. (1), the department shall conduct rehabilitation reviews for a person who requests a rehabilitation review if the person is eligible under s. 48.685(5), Stats., and s. DCF 12.11 and is any of the following:

- (a) A person to whom delegation of the care and custody of a child under s. 48.979 has been, or is expected to be, facilitated by an entity.
- (b) A person who is, or is expected to be, a nonclient resident of a person specified in par. (a).

History: CR 16-014: cr. Register June 2016 No. 726, eff. 7-1-16.

DCF 12.11 Eligibility to request rehabilitation review.

(1) A person who is not eligible under s. 48.685(4m), Stats., to receive regulatory approval, to be employed as a caregiver, to contract with an entity to be a caregiver, or to reside at an entity or with a caregiver specified in s. DCF 12.02(4)(c) may request a rehabilitation review, unless any of the following apply:

- (a) The person is not permitted to demonstrate rehabilitation for the applicable offense under s. 48.685(5)(bm) or (br), Stats.
- (b) The person is not permitted to demonstrate rehabilitation for the applicable offense under s. 48.685(5)(bm) or (br), Stats., during a waiting period that has not ended.

Note: Tables listing barring offenses and the availability of rehabilitation review for each offense are in the applicable program regulatory sections of the department website at

<http://dcf.wisconsin.gov>.

For group homes, residential care centers, child-placing agencies, and shelter facilities, see the child welfare licensing/background checks section of the department website.

For foster homes, adoption home studies, and subsidized guardianship, see the foster care/related statutes and administrative rules section of the department website. For child care, see the child care regulation/child care licensing or child care certification sections of the department website.

(c) Within the preceding 12 months, an agency denied the person's request for rehabilitation approval, and the new request is for the same type of regulatory approval, job function, or nonclient resident status with the same level of direct contact with clients or unsupervised access to clients.

History: CR 16-014: cr. Register June 2016 No. 726, eff. 7-1-16.

DCF 12.12 Applying for rehabilitation review.

To apply for rehabilitation review, a person who is eligible to request rehabilitation review under s. DCF 12.11 shall do all of the following:

(1) Obtain a rehabilitation review application on a form prescribed by the department and submit the completed application to the applicable agency.

Note: Form DCF-F-419 Rehabilitation Review Application Instructions, is available in the forms section of the department website, <http://dcf.wisconsin.gov>.

(2) Submit any supporting documents and information required by the rehabilitation review application to the applicable agency.

History: CR 16-014: cr. Register June 2016 No. 726, eff. 7-1-16.

DCF 12.13 Agency rehabilitation review process. In this chapter:

(1) **TIME FRAME.** If the application is not complete or any supporting documents or information required in the application are not submitted within 90 days after the date the application was first received by the applicable agency, the request for a rehabilitation review shall be denied, unless the person requesting the rehabilitation review provides a good cause explanation.

(2) **REHABILITATION REVIEW PANEL.** If a person who is eligible for rehabilitation review under s. DCF 12.11 submits an application that is complete under s. DCF 12.12 no later than the deadline in sub. (1), the applicable agency shall appoint a review panel of at least 2 persons to review the information submitted. The panel may request additional information from the person requesting the review or from other agencies or persons familiar with the person.

(3) **REQUESTER APPEARANCE.**

(a) The person requesting the rehabilitation review shall have an opportunity to appear before the review panel to present information and answer any questions the panel members may have.

(b) The person's appearance before the review panel may be in person, by telephone, or other technology approved by the agency.

(4) **REHABILITATION DECISION FACTORS.** After reviewing the information obtained, the review panel shall decide whether the person who is the subject of the rehabilitation review has demonstrated by clear and convincing evidence that he or she is rehabilitated for purposes of receiving regulatory approval, employment as a caregiver, contracting with an entity to be a caregiver, or residing at an entity or with a caregiver specified in s. DCF 12.02(4)(c). The panel shall consider at least the following factors, as applicable:

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(a) Personal references and comments from employers, persons, and agencies familiar with the applicant and statements from therapists, counselors, and other professionals.

(b) Evidence of successful adjustment to, compliance with, or proof of successful completion of parole, extended supervision, probation, incarceration, or work release privileges.

(c) Any investigations or enforcement actions by a regulatory agency for substantial noncompliance with applicable laws.

(d) Any subsequent contacts with law enforcement agencies, including arrests, charges, convictions, pending criminal or civil arrest warrants, civil judgments, or other legal enforcement actions or injunctions against the person.

(e) Any aggravating or mitigating circumstances surrounding the barring crime, act, or offense.

(f) Evidence of rehabilitation, such as public or community service, volunteer work, recognition by other public or private authorities for accomplishments or efforts or attempts at restitution, and demonstrated ability to develop positive social interaction and increased independence or autonomy of daily living.

(g) The age of the person at the time of the offense and the amount of time between the crime, act, or offense and the request for rehabilitation review.

(h) Whether the person is on the sexual offender registry under s. 301.45, Stats., or on a similar registry in another jurisdiction.

(i) A victim's impact statement, if appropriate.

(j) The person's employment history, including evidence of acceptable performance or competency and dedication to the person's profession.

(k) The nature and scope of the person's contact with clients in the position requested.

(L) The degree to which the person would be directly supervised or working independently in the position requested.

(m) The opportunity presented for someone in the position to commit similar offenses.

(n) The number, type, and pattern of offenses committed by the person.

(o) Successful participation in or completion of recommended rehabilitation, treatment, or programs.

(p) Unmet treatment needs.

(q) The person's veracity.

(5) REVIEW PANEL DECISION.

(a) Scope. An agency may grant rehabilitation approval only within the scope of its regulatory authority.

(b) Deferral. A review panel may defer a final decision for a period of not more than 6 months, unless the person who is the subject of the rehabilitation review agrees to a longer time period.

(c) Written decision. The review panel shall issue a written decision that includes the following information, as applicable:

1. 'Approval.' An approval shall state all of the following:

(a) The type of entity to which the decision applies.

(b) The types of approval that were requested and are approved in the decision, such as regulatory approval, employment as a caregiver, contract to be a caregiver, or nonclient residency at an entity.

(c) Any conditions or limitations placed on the approval.

Note: Examples of limited approval include approval for employment doing only certain job functions or approval to care for a specific child only.

2. 'Deferral.' A deferral shall state the reason for the deferral and the date that the review panel will reconvene to review any new information affecting the request.

3. 'Denial.' A denial shall include all of the following:

(a) The type of entity to which the decision applies.

(b) The types of approval that were requested and are denied in the decision, such as regulatory approval, employment as a caregiver, contract to be a caregiver, or nonclient residency at an entity.

(c) The reason for the denial.

(d) Notice that the person may appeal the denial and a summary of the appeal process under s. 48.685(5c), Stats., and s. DCF 12.14.

(6) REVIEW PANEL DECISION DISTRIBUTION.

(a) The review panel shall send its decision to the person who is the subject of the rehabilitation review and, if requested, a copy to entities specified by that person.

(b) Within 10 days after sending a rehabilitation review decision to the person who is the subject of the rehabilitation review, the review panel for an agency shall send all of the following to the department:

1. A copy of the review panel's decision.

2. A copy of the person's application under s. DCF 12.12(1).

3. A completed rehabilitation review panel decision report on a form prescribed by the department.

Note: Form DCF-F-418-E, Rehabilitation Review Panel Decision Report, is available in the forms section of the department website at <http://dcf.wisconsin.gov>. The materials should be sent to the Office of Legal Counsel, Department of Children and Families, P. O. Box 8916, Madison, WI 53708-8916.

(7) RETENTION OF REHABILITATION DECISION DOCUMENTATION.

(a) The agency shall retain a copy of the written decision by the rehabilitation review panel and any decisions from filed appeals that may result.

(b) The agency shall retain a copy of the rehabilitation review request and all materials or information obtained or notes made as part of the rehabilitation review decision for at least 10 years after the decision is made and any appeals are finalized.

History: CR 16-014: cr. Register June 2016 No. 726, eff. 7-1-16.

DCF 12.14 Appealing a rehabilitation review panel's denial.

(1)(a) A person who is denied rehabilitation approval may submit a written request for review of the decision under s. 48.685(5c), Stats., within 10 days after the date of the written decision by the rehabilitation panel. No new evidence may be submitted.

(b) A person who appeals under this subsection shall bear the burden of proving, by a preponderance of the evidence, that the rehabilitation review panel for the agency erroneously exercised its discretion in deciding that the person did not show sufficient evidence to demonstrate that he or she is rehabilitated.

Note: Pursuant to s. 48.685(5c), Stats., submit an appeal to the following, as appropriate:

1. To appeal a denial by a rehabilitation review panel for the department, a certification agency, or a child-placing agency, send the request to the Department of Children and Families, Office of Legal Counsel, P.O. Box 8916, Madison, WI 53708-8916.

2. To appeal a denial by a rehabilitation review panel for a county department, send the request to the director of the appropriate county department or his or her designee.

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3. To appeal a denial by a rehabilitation review panel for the school board, send the request to the Superintendent of the Department of Public Instruction, 125 South Webster Street, Madison, WI 53703; or call (608) 266-3390.

(2) A person who receives an adverse decision from the secretary of the department or his or her designee under sub. (1) may request a contested case hearing under ch. 227, Stats., and ch. HA 1 within 10 days after the date of the written decision by the department.

Note: Send a request for a contested case hearing to the Division of Hearings and Appeals, 5005 University Avenue, Room 201, Madison, Wisconsin, 53705-5400. The fax number of the division is (608) 264-9885.

(3) A person who receives an adverse decision from a county department director or his or her designee has the right to appeal the decision under ch. 68, Stats.

History: CR 16-014: cr. Register June 2016 No. 726, eff. 7-1-16.

DCF 12.15 Withdrawal of rehabilitation approval.

(1) **COMPLIANCE WITH APPROVAL CONDITIONS.** A person whose rehabilitation is approved shall comply with any conditions and limitations imposed with that approval.

(2) **CRITERIA FOR WITHDRAWAL.** An agency that granted a person a rehabilitation approval may withdraw the rehabilitation approval if the person has done any of the following:

(a) The person has failed to comply with or abide by any conditions or limitations imposed with the rehabilitation approval.

(b) The person knowingly submitted false information or withheld pertinent information that could have or would have affected the review panel's decision to grant the rehabilitation approval.

(3) **INFORMING THE GRANTING AGENCY.** An entity or agency that becomes aware that a person has violated the conditions or limitations of a rehabilitation approval that was granted by another agency shall inform the agency that granted the approval of the violation.

(4) **WITHDRAWAL NOTICE.** If an agency withdraws a rehabilitation approval, it shall issue a written notice that explains the reasons for the withdrawal and informs the person whose approval has been withdrawn that he or she may appeal as provided in s. DCF 12.14.

(5) **REPORTING TO THE DEPARTMENT.** If an agency withdraws rehabilitation approval and the withdrawal results in a bar to regulatory approval, employment as a caregiver, contracting with an entity to be a caregiver, or residing at an entity, the agency that withdraws the rehabilitation approval shall immediately report the withdrawal to the department.

Note: Send reports of withdrawn rehabilitation approval to Department of Children and Families, Office of Legal Counsel, P.O. Box 8916, Madison, WI 53708-8916.

History: CR 16-014: cr. Register June 2016 No. 726, eff. 7-1-16.

DCF 12.16 Permissive acceptance of a rehabilitation approval. In this chapter:**(1) SCOPE.**

(a) An agency may accept a rehabilitation approval granted to a person by another agency if the previous rehabilitation approval applies to the same type of entity and the same type of approval.

Note: For example, a certification agency in County B may accept a rehabilitation approval to be a nonclient resident in a certified child care home if a certification agency in County A granted the same type of approval

(b) A certification agency may accept a rehabilitation

approval granted to a person by the department if the previous rehabilitation approval applies to the same type of approval for a child care center that is licensed to care for 4 to 8 children under s. 48.66, Stats.

(c) An agency that accepts a rehabilitation approval granted by another agency shall enforce any limitations or conditions that were included in the approval if the conditions or limitations imposed by the agency that granted the approval have not been terminated or have not expired.

(d) A rehabilitation approval granted by a tribe that conducts rehabilitation reviews pursuant to a plan approved under s. 48.685(5d), Stats., may not be accepted.

Note: Rehabilitation approvals granted by a tribe under this chapter may be accepted.

(2) PROCESS.

(a) If an agency learns that a person has had a previous rehabilitation review, the agency shall contact the department to request a copy of the rehabilitation decision and information on the status of any rehabilitation approval.

(b) If the previous rehabilitation review decision was an approval and the approval has not been withdrawn, the agency shall determine whether the approval is eligible to be accepted under sub. (1).

(c) If the previous rehabilitation approval is eligible to be accepted under sub. (1), the agency shall determine whether to accept or deny the previous approval.

(3) **INELIGIBILITY OR DENIAL.** If an agency determines that a person's previous rehabilitation approval may not be accepted under sub. (1) or the agency denies an eligible rehabilitation approval under sub. (2)(c), the agency shall inform the person of his or her right to submit an application for a new rehabilitation review under s. DCF 12.12 and shall process a submitted application under s. DCF 12.13.

History: CR 16-014: cr. Register June 2016 No. 726, eff. 7-1-16.

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