

ORDINANCE #04/91, AS AMENDED
OF THE FOND DU LAC RESERVATION BUSINESS COMMITTEE
ADOPTING THE
FOND DU LAC DAY CARE STANDARDS
AND LICENSING PROCEDURES

Adopted by Resolution #1082/91 dated December 10, 1991.
Amended by Ordinance #01/92, adopted by Resolution #2005/92 of the
Fond du Lac Reservation Business Committee dated February 13, 1992.
Amended by Ordinance #07/98, adopted by Resolution #1207/98 of the
Fond du Lac Reservation Business Committee dated July 9, 1998.

FOND DU LAC RESERVATION DAY CARE STANDARDS
AND LICENSING PROCEDURES

101. Authority	1
102. Purpose	1
103. Definitions	1
104. Licensing of Facilities	3
105. Licensing Process	3
106. Negative Licensing Actions	10
107. Appealing Licensing Decisions	11
108. Agency Records	11
109. Caregivers Qualifications	12
110. Licensed Capacity Child/Adult Ratios, Age Distribution Restrictions	14
111. Child/Adult Ratios: Age Distribution Restrictions	14
112. Reporting to Agency	15
113. Day Care Training	16
114. Behavior Guidance	17
115. Admissions, Provider Records, Reporting	18
116. Activities and Equipment	20
117. Physical Environment	23
118. Sanitation and Health	26
119. Water, Food and Nutrition	30
Certification by Reservation Business Committee	31

ORDINANCE #04/91, AS AMENDED

FOND DU LAC RESERVATION DAY CARE STANDARDS AND LICENSING PROCEDURES

101. Authority. Pursuant to the authority granted by Article VI Section 1(d) of the Constitution of the Minnesota Chippewa Tribe, and recognized under Section 16 of the Indian Reorganization Act, 25 U.S.C. Section 476. the Fond du Lac Reservation Business Committee does hereby promulgate and prescribe the following standards as applicable to the operation of all day care facilities located with the exterior boundaries of the Fond du Lac Reservation.

102. Purpose. The purpose of this Ordinance is to assure quality standards in the provision of day care services to all individuals receiving such services on the Fond du Lac Reservation.

103. Definitions. The following definitions shall govern the scope and applicability of all provisions of this Ordinance.

(a) Adult - "Adult" shall mean a person at least eighteen (18) years of age.

(b) Agency - "Agency" shall mean the Human Services Division of the Fond du Lac Reservation shall be the duly delegated representative of the Reservation Business Committee for the purposes of implementing this ordinance.

(c) Applicant - "Applicant" shall mean the person seeking a license to be the primary provider of day in the residence.

(d) Caregiver - "Caregiver" shall mean the provider, substitute, helper, or another adult giving care in the residence.

(e) Certified Child Care Provider - a status given to persons who have met the training and experience obligations and are available for independent child care assignments on the Reservation.

(f) Child - "Child" shall mean a person thirteen years of age or younger; or a person who is under age eighteen and is physically or mentally incapable of caring for himself or herself; or under court supervision.

(g) Day Care - "Day Care" shall mean the care of a child in a residence outside the child's own home or when a caregiver comes into the child's residence for gain or otherwise, on a regular basis, for any part of a 24-hour day.

(h) Family Day Care - "Family Day Care" shall mean day care for no more than ten children at one time of which no more than six are under school age. The licensed capacity must include all children of any caregiver when the children are present in the residence.

(i) Fire Marshal - "Fire marshal" shall mean the person designated by the Reservation Business Committee to administer and enforce the Fond du Lac Fire Code, which shall be substantively similar to the Uniform Fire Code, as codified under Minnesota Statutes § 299F.011.

(j) Group Family Day Care - "Group Family Day Care" shall mean day care for no more than 14 children at any one time. The total number of children includes all children of any caregiver when the children are present in the residence.

(k) Helper - "Helper" shall mean a person at least 13 years of age who assists the provider with the care of children.

(l) Infant - "Infant" shall mean a child who is at least six weeks of age but less than 12 months of age.

(m) Licensed Capacity - "Licensed Capacity" shall mean the total number of children thirteen years of age or younger permitted at any one time in the residence. The licensed capacity includes all children of any caregiver when the children are present in the residence.

(n) Medicine - "Medicine" shall mean a prescription or non-prescription substance taken internally or applied externally to prevent or cure disease, heal, or relieve pain.

(o) Mental Illness - "Mental Illness" shall mean the inability to interpret reality realistically and the impaired functioning in primary aspects of daily living, such as personal relations, living arrangements, work, and recreations; which is listed in the International Classification of Disease (ICD-9-CM) Ninth Revision (1980), code range 290.0-299.9, or the corresponding code in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-III) Third Edition (1980), Axes I, II, or III. These publications are incorporated by reference and are not subject to frequent change. They are available in the Minnesota law library.

(p) Newborn - "Newborn" shall mean a child between birth and six weeks of age.

(q) Parent - "Parent" shall mean a person who has the legal responsibility for a child such as the child's mother, father, or legally-appointed guardian.

(r) Preschooler - "Preschooler" for classes A, C1, C2 and C3 licenses shall mean a child at least 24 months of age. For specialized infant/toddler licenses (classes B1, B2, D) the child is considered preschool until 30 months up to enrollment in the first day of school in the local school district.

(s) Provider - "Provider" shall mean the license holder and/or primary caregiver.

(t) RBC - "RBC" shall mean the Reservation Business Committee is the duly elected and federally recognized governing body of the Fond du Lac Reservation. The RBC is composed of five members; a Chairman, a Secretary-Treasurer, and three District Representatives.

(u) Regularly or Regular Basis - "Regularly or Regular Basis" shall mean a cumulative total of more than 30 days within any 12-month period.

(v) Related - "Related" shall mean any of the following relationships by marriage, blood, or adoption: parent, grandparent, brother, sister, stepparent, stepsister, stepbrother, uncle, aunt, child, niece, nephew. Related also includes a legally appointed guardian.

(w) Residence - "Residence" shall mean a dwelling unit in which day care is provided and which is occupied as a home.

(x) School Age - "School Age" shall mean a child ten years of age or younger and enrolled in the first day of kindergarten or eligible to enter kindergarten within the next 4 months, but is younger than 11 years old, in the local school district.

(y) Substitute - "Substitute" shall mean an adult at least 18 years of age who assumes the responsibility of the provider.

(z) Supervision - "Supervision" shall mean a caregiver being within sight or hearing of an infant, toddler, or preschooler at all times so that the caregiver is capable of intervening to protect the Health and safety of the child. For the school-age child, it means a caregiver being available for assistance and are so that the child's health and safety is protected.

(aa) TEC - "TEC" shall mean the Tribal Executive Committee is the governing body of the Minnesota Chippewa Tribe. The Minnesota Chippewa Tribe is composed of six Reservations, namely Leech Lake, White Earth, Grand Portage, Bois Forte, (Nett Lake), Fond du Lac and Mille Lacs. The Tribal Executive Committee is the governing body of the Minnesota Chippewa Tribe. It is composed of twelve members, consisting of the Chairman and the Secretary-Treasurer of each Reservation Business Committee of the six member Reservations.

(bb) Toddler - "Toddler" for classes A, C1, C2, C3 licenses shall mean a child at least 12 months of age but less than 24 months of age. For specialized infant and toddler licenses (classes B1, B2 and D) a toddler means a child who is at least 12 months old but less than 30 months old.

(cc) Uniform Fire Code - "Uniform Fire Code" shall mean the Uniform Fire Code as codified under Minnesota Statute Section 299F.011 et seq., except that enforcement shall be exclusively as provided under the terms of this Ordinance and other applicable laws of the Fond du Lac Band.

(dd) Variance - "Variance" shall mean a written permission by the RBC for a provider or applicant to depart from the standards.

104. Licensing of Facilities for Children Family Day Care and Group Family Day Care Homes, and Certified Child Care Providers.

(a) Purpose. The purpose of this listing is to establish procedures and standards for licensing family day care and group family day care homes, and certified child care providers to ensure that minimum levels of care and service are given and the protection, proper care, health, safety, and development of the children are assured.

(b) Applicability. These standards and procedures are authorized by the Fond du Lac Reservation Business Committee and govern the licensing of family day care homes and group family day care homes, and certified child care providers. No person, association, corporation or other legal entity shall maintain or operate a day care facility on the Fond du Lac Reservation unless licensed by the Reservation Business Committee pursuant to this Ordinance.

(c) Exclusion from licensure. The following day care situations are excluded from licensure under this Ordinance: (1) day care provided by a relative to only related children; or (2) day care provided to children from a single, unrelated family, for any length of time; or (3) day care provided for a cumulative total of less than 30 days in any 12-month period; or (4) the exclusions contained in items A and B are mutually exclusive.

105. Licensing Process.

(a) License application. A license to operate a family or group family day care residence must be obtained from the RBC.

(1) Application for a license must be made on the application form issued by the Social Services Department of the Fond du Lac Reservation.

(2) The applicant shall be the person who will be the provider of care in the residence, present during the hours of operation, and who shall be legally responsible for the operation of the residence.

(3) The Social Services Department shall supply the applicant with the application form and a copy of the Fond du Lac Day Care Standards and Licensing Procedures. The agency shall stamp and date a signed and completed application form on the date of receipt.

(4) An application for licensure is completed when the applicant completes, signs, and submits all forms and documentation needed for licensure to the Fond du Lac Reservation and the agency receives all inspection, zoning, evaluations, and investigative compliance with Fond du Lac Reservation Day Care Standards.

(5) All applicants must give written consent to the Reservation Business Committee, or the Fond du Lac Social Services Department as its designated representative, to conduct any and all investigations into the affairs of the applicant which are directly relevant to the standards prescribed by this ordinance.

(b) Licensing study. The applicant shall give the designated Social Services workers access to the residence for a licensing study to determine compliance with Fond du Lac Reservation Day Care Standards.

(1) If, in the judgment of the designated representative, a potentially hazardous condition may be present, due to violations of parts of the Day Care Standards, the applicant shall obtain an inspection from a fire marshal, building official, or health officer to verify the absence of hazard and report to the health agency.

(2) The residence must comply with any applicable local ordinances. If the commissioner or the agency has reasonable cause to believe a hazardous condition may be present and requests an inspection by fire marshal, building official, or health officer, then any condition cited by a fire marshal, building official, or health officer as hazardous and creating an immediate danger of fire, or threat to human life and safety, must be corrected or a variance approved in accordance with all written standards.

(3) An initial inspection of the residence by a fire marshal to determine compliance with the standards established by the Uniform Fire Code and compliance with orders issued are conditions of licensure for all residences with freestanding solid fuel heating appliances; manufactured (mobile) homes; new applicants for licensure with a licensed capacity of more than ten; day care residences which use the basement for child care; and -residences in mixed or multiple occupancy buildings. "Multiple occupancy building" means a structure with two or more residential dwelling units such as a duplex, apartment building, or town home. "Mixed occupancy building" means a residence in a structure that contains non-residential occupancies or an attached garage.

(4) The licensing representative may require prior to licensure, or anytime during the licensed term of day care, a physical, mental illness, or chemical dependency or abuse evaluation of any caregiver or person living in the residence or present during the hours children are in care if the licensing representative has reasonable cause to believe that any of the disqualification factors in the Fond du Lac Day Care Standards, or that the provider is not physically able to care for the children. These evaluations, conducted by a licensed physician, psychiatrist, psychologist, consulting psychologist, or certified chemical dependency practitioner or counselor may be used to verify physical or mental illness, chemical dependency or chemical abuse, or behavior that would reflect on the ability of the provider to give day care.

(c) Licensing agency. The RBC shall accept and process applications for licensure and recommend license suspensions and revocations based upon established Day Care Standards.

(1) The designated representatives of the Fond du Lac Social Services Department shall conduct the initial licensing study of the residence and the investigation of caregiver qualifications and the annual relicensing study.

(2) The RBC shall evaluate and recommend an application for approval or denial of licensure to the department within 30 days after the agency has in its possession all completed and signed forms, reports, evaluations, information, and documentation required from the applicant and all inspection, zoning, and investigative reports required to verify compliance with established standards.

(3) If a recommendation cannot be made by the agency within 30 days after all information, documentation, and evaluations necessary to verify compliance with the rule parts has been received, the Social Services Coordinator must inform the applicant in writing why a recommendation cannot be made.

(d) Issuance. The Reservation Business Committee shall issue a license to an applicant which it deems to be qualified under the provisions of this Ordinance. Each license issued may be limited or conditioned in whatever manner deemed appropriate by the Reservation Business Committee consistent with the standards and purposes of this ordinance. Each licensee shall be informed in writing by the Reservation Business Committee of any limitation or condition so imposed.

(e) Period of licensure: non-transfer. All license must be issued by the department for up to one year when the provider fully complies with established standards. The license must not be transferred to another provider.

(f) Provisional license. An applicant for initial licensure may be granted a provisional license by the RBC for up to one year if all laws and rules cannot be met immediately and do not threaten the health, rights, or safety of the children, and which will be corrected within the time specified by the commissioner but not to exceed one year. Failure to correct deviations within the stated time shall be cause for revocation, suspension, or non-renewal.

(g) Disqualification factors. An applicant or provider shall not be issued a license or the license shall be revoked, not renewed, or suspended if the applicant, provider, or any other person living in the day care residence or present during the hours children are in care, or working with children:

(1) Abuses prescription drugs or uses controlled substances as defined in the Minnesota Statutes, Chapter 152, or alcohol, to the extent that the use or abuse has or may have a negative effect on the ability of the provider to give care or is apparent during

the hours children are in care. Caregivers who have abused prescription drugs or have been dependent on controlled substances as defined in Minnesota Statutes, Chapter 152, or alcohol, such that the use, abuse, or dependency has a negative effect on the ability to give care, was apparent during the hours children are in care, or required treatment or therapy, must have 12 months of verified abstinence before licensure.

(2) Has mental illness and the behavior has or may have a negative effect on the ability of the provider to give care or is apparent during the hours children are in care.

(3) Has had parental rights terminated by any court of competent jurisdiction.

(4) Refuses to give written consent for the disclosure of criminal history records.

(5) Has had a conviction of, has admitted to, or there is substantial evidence indication incest, abuse, or neglect (as those terms are defined in the Minnesota Statutes).

(6) Has had a conviction of, had admitted to, or there is a preponderance of the evidence indicating the commission of any crime listed other than those listed in item D. Conviction, admission, or a preponderance of evidence indicating the commission of the same or similar crime in another state or national jurisdiction shall also be grounds for license denial, revocation, non-renewal, or suspension.

(7) Has had a child placed in foster care within the past 12 months and the agency determines the reasons for placement reflect on the ability of the provider to give care. A license may not be denied if the primary reason for the placement was due to a physical illness of the parent, mental retardation of the child, a handicap of the child, or for the temporary care of an infant being relinquished for adoption.

(8) Has had a child placed in residential treatment within the last 12 months for emotional disturbance or antisocial behavior and the agency determines that the reasons for the placement reflect on the ability of the provider to give care.

(h) License suspension or probation. A license shall be suspended or may be probationary if the provider, or any other person living in the day care residence or present during the hours children are in care or working with children, is awaiting trial for a crime.

(i) Variance standard. An applicant or provider may request a variance from compliance. When reviewing a variance request, the department shall assess whether alternative methods are identified by the applicant or provider to ensure the health, safety, and protection of children in care. A variance may be granted only if:

(1) The applicant complies with all applicable laws, ordinances, and regulations;

(2) Specific equivalent measures are identified by the applicant or provider to ensure the health, safety, and protection of the children in care;

(3) Any variance to the safety provisions which relate to the Uniform Fire Code, or such other similar code as may be established by the Fond du Lac Reservation Business Committee, and is approved by a fire marshal and alternative measures are identified to ensure the safety of children in care;

(4) Any variance of the provisions relating to sanitation and health and on water, food, and nutrition are approved by a health officer and alternative measures are identified to ensure the safety of children in care;

(5) Any variance of the provision relating to stairways, decks, and sewer disposal which relate to Building Code, are approved by a building official and alternative measures are identified to ensure the health and safety of children in care; and

(6) Any variance regarding disqualification factors must have clear and convincing evidence presented by the applicant or provider that no threat or harm whatsoever will result to the children in care due to the granting of the variance. The department shall consider the nature of the crime committed and the amount of time which has elapsed without a repeat of the crime.

(j) Variance procedure. Request for a variance must comply with and be handled according to the following procedures:

(1) An applicant or provider must submit to the agency a written request for variance. The request must include the following information:

(A) the sections with which the applicant or provider cannot comply;

(B) the reason why the applicant or provider needs to depart from the specified sections;

(C) the period of time for which the applicant or provider requests a variance; and

(D) the specific equivalent alternative measures which the applicant or provider will provide so the health, safety, and protection of children in care are ensured if the variance is granted.

(2) An applicant or provider must submit to the agency written approval from a fire marshal of a variance request and the alternative measures identified to ensure the safety of children in care when a variance of the fire safety provisions on physical

environment is requested. These are means of escape, occupancy separations, vertical separations, heating and venting systems, locks and latches, interior walls and ceilings, extinguishers, smoke detection systems, and electrical services.

(3) An applicant or provider must submit to the agency written approval from a health officer of a variance request and the alternative measures identified to ensure the safety of children in care when a variance of the health provisions on sanitation and health, and on water, food, and nutrition is requested.

(4) An applicant or provider must submit to the agency written approval from a building official of a variance request and alternative measures identified to ensure the health and safety of children in care when a variance is requested to the standards relating to stairways, decks, and sewage disposal.

(k) Agency variance role. The agency may request that the RBC delegate to the agency the authority to grant variances to the standards governing licensed capacity, child/adult ratios and age distribution restrictions if the need for the variance is to cover short overlaps of time when children are entering or leaving the residence, or emergencies for a short period of time if the total of all variances to the standards does not exceed 30 days in any 12-month period of licensure. The applicant or provider must verify in writing that the totals have not been and will not be exceeded for this period of time. A variance of any part of the day shall constitute a variance for the entire day.

(1) An agency's request must be made in writing and include a procedure for processing variances and the name of the persons designated by the agency to review request for variances. If the proposed procedure is fair and efficient and conforms to the procedures and standard specified in this part, the RBC shall issue a written delegation of authority to grant and deny variances. At least once a year, the agency shall evaluate whether the department is complying with its procedures and the standards in this subpart.

(2) The RBC has the authority to rule on request for variances, or if the request seeks variance of a rule part provision the agency does have the authority to vary, approve, further investigate, or deny the request. The agency shall also mail a copy of its recommendation to the applicant or provider. The RBC shall grant or deny a request for a variance within 30 days after receiving the request from the Health and Human Services Advisory Board. If the RBC denies the applicant's or provider's request for a variance, the applicant or provider may appeal the decision according to RBC. The applicant or provider shall be informed the right to appeal at the time of denial.

(l) License terms. The license, whether regular or provisional, must indicate:

(1) the number and age groupings of children who may receive care at any one time;

(2) the expiration date of the license and location of the residence;

(3) the name and address of the provider; and

(4) that the provider is licensed under the Fond du Lac Licensing Rules.

(m) Posting license. The provider shall post the license in the residence in a prominent place.

(n) Change in license terms. The following shall apply to changes in the terms of a license.

(1) A new department application form must be submitted by the provider and a full licensing study must be completed when the provider wants to move the day care operation to a new residence or the provider wants to change to group family care from family day care.

(2) A new department application form indicating the changes in the ages and numbers of children in care must be completed when the provider wants to change to family day care from group family day care.

(3) A licensing study pursuant to the Fond du Lac Licensing Rules shall be completed when there is an addition to any adult or child over the age of ten years who is or will be regularly present in the residence.

(o) Number of licenses. No provider shall be issued a license to operate more than one day care residence.

(p) Access to residence. The provider shall give authorized Fond du Lac Social Service Department employees designated by the Coordinator of Social Services, access to the residence during the hours of operation to determine whether the residence complies with the Fond du Lac Day Care Standards. Access shall include:

(1) the residence to be occupied by children in care;

(2) any adjoining land or buildings owned or operated by the applicant or provider in conjunction with the provision of day care and designed for use by the children in care;

(3) non-interference in interviewing all caregivers and household members present in the residence on a regular basis and present during the hours of operation; and

(4) the right to view and photocopy the records and documents pertaining to child placements

(g) License renewal. The following provisions must be followed by the agency when receiving a license for renewal.

(1) The agency must conduct a relicensing study of the provider and residence to determine continued compliance with the Fond du Lac Day Care Standards once every 12 months for as long as the provider maintains a license. Following two (2) consistent years relicensure will occur every other year.

(2) The agency must solicit two or more parent evaluations of a provider's care, the residence, and program prior to renewal of a license. The evaluations and all complaints received during the period of licensure must be considered by the agency in determining continued compliance with Fond du Lac children.

(r) Return of license. When a provider stops giving care, or if a license is revoked, suspended, or not renewed, the provider shall return the license to the RBC, Fond du Lac Social Services Department, stop all advertising, and refrain from providing care to children.

106. Negative Licensing Actions.

(a) Complaints. Every complaint, including anonymous ones, concerning violations of the Fond du Lac Day Care Standards, shall be investigated by the agency within 14 days. All complaints substantiated by the agency about a provider licensed by Fond du Lac shall be recorded in the agency file on that provider.

(b) Definitions. For the purposes of this subject, negative licensing actions shall mean denial or application for licensure, revocations, non-renewal, probation, suspension, or immediate suspension of an existing license.

(c) Procedures. In accordance with the Fond du Lac Day Care Licensing guidelines, failure to comply with the terms of licensure is grounds for a negative licensing action. If the Health and Human Services Advisory Board recommends a negative licensing action, the Coordinator shall notify the RBC and the RBC shall determine if the standards of licensure have been violated. If the grounds are sufficient, the Coordinator shall notify the applicant or provider by certified mail. The notice must be addressed to name and location shown on the application or license and contain a statement of, and the reasons for, the proposed action. The notice must inform the applicant or provider of the right to appeal the decision within 10 days of receipt of letter. The applicant or provider shall have an opportunity for a hearing in accordance with Fond du Lac Day Care appeal procedures.

(d) Denial. If the RBC denies an application for licensure, the applicant must be informed of the right to appeal the decision within 10 days.

(e) Revocation. If the RBC proposes to revoke a license, the provider must be informed of the right to appeal the decision within 10 days.

(f) Non-renewal. If the RBC refuses to renew a license, the provider must be informed of the right to appeal the decision within 10 days

(g) Probation. If the RBC proposes to make a license probationary, the provider must be informed of the right to appeal the decision within 10 days.

(h) Suspension. If the RBC proposes to suspend a license, the provider must be informed of the right to appeal the decision within 10 days.

(i) Immediate suspension. If the RBC finds that the health, safety, or rights of the children in care in imminent danger, the RBC shall immediately suspend the license. The provider shall be informed by personal service and informed of the right to appeal the decision within 5 days. The appeal does not stay the decision of the RBC to suspend the license.

(j) Correction orders. If the RBC finds that the residence or provider does not comply with the provisions of the Fond du Lac Day Care Standards, a correction order will be issued.

(k) Notice to parents of negative action. As soon as the Health and Human Services Advisory Board recommends revocation, suspension, probation, or immediate suspension, a notice of the circumstances for the action, but not the identity of a child, other than the parent's own, shall be sent by the agency to the parents of children in care. The license is not immediately suspended and the provider appeals the decision of the RBC, children will not be allowed in the home until after the appeal has been processed.

(l) Reapplication after revocation or non-renewal. A provider whose license has been revoked or not renewed because of noncompliance with applicable laws or rules, shall not be granted a new license for five years following revocation or non-renewal. When the RBC initiates a negative licensing action against a provider on any grounds, the provider may not voluntarily withdraw his or her license without written assurance from the provider that he or she is voluntarily accepting revocation and will not reapply for two years.

107. Appealing Licensing Decisions.

Should a provider wish to appeal a licensing decision, he may ask the RBC to reconsider its decision not less than 10 working days after the decision in question but not more than 20 working days after. Only one appeal on each issue is allowed.

108. Agency Records.

(a) Agency records. The Fond du Lac Social Services Department shall maintain the following records for each provider:

(1) A copy of the completed licensing application form signed by the applicant and the agency.

(2) The physical health reports on any adult giving care in the residence on a regular basis.

(3) Any written reports from the fire marshal, health officer, or building officer.

(4) The agency's initial and any renewal licensing studies.

(5) If the applicant has been licensed through another jurisdiction, the agency shall request and keep a reference from the licensing authority in that jurisdiction.

(6) The annual relicensing evaluation by the agency of the provider. Any comments of the provider about the evaluation by the agency shall also be noted in the agency record.

(7) Documentation of any variances.

(8) Arrest, conviction, or criminal history records from the Minnesota Bureau of Criminal Apprehension, county attorney, sheriff, local police department, national criminal history record repositories, other public and private social service agencies, and juvenile, municipal, and district courts on any person living or working in the day care residence.

(b) Data Privacy. The Coordinator of the Fond du Lac Social Services Department and the health officer shall have access to provider records on children in care to determine compliance. The provider-- shall not disclose any records on children in care to any persons other than the parents of the child, the Fond du Lac Social Services Department assigned employees, and medical or public safety persons if information is necessary to protect the health and safety of the child.

109. Caregiver Qualifications.

(a) Age. An applicant for family day care or group family day care shall be an adult at the time of licensure.

(b) Health. An adult caregiver shall be physically able to care for children.

(1) The applicant shall supply documentation to the agency with the license application that the applicant has had a physical examination from a licensed physician within 12 months prior to initial licensure and is physically able to care for children.

(2) The applicant shall supply documentation to the agency with the license application that all adult caregivers who are assisting with care on a regular basis have had a physical examination from a licensed physician within 12 months prior to employment within the residence and are physically able to care for children.

(c) Group family day care. A group family day care applicant shall meet all the requirements listed in subparts 1 and 2 for family day care. A group family day care applicant shall also meet the qualifications in item A, B, or C.

(1) A minimum of one years substantial compliance with all Fond du Lac licensing standards as a licensed family day care provider; or

(2) A minimum of six months substantial compliance with all Fond du Lac licensing standards as a licensed family day care provider; and

(A) completion of an accredited competency-based family day care training and assessment program offered by an accredited institute; or

(B) thirty hours of child care, health, and nutrition training and a minimum of 520 hours of experience as an assistant teacher, student teacher, or intern in an elementary school or licensed day care center, or as an assistant adult caregiver in a licensed group family day care home; or

(C) thirty hours of child development or early childhood education training and a minimum of 520 hours of experience as a licensed practical or registered nurse; or

(3) Certification or licensure indicating:

(A) completion of a two-year child development or early childhood education associate or certificate program at an accredited college or university;

(B) completion of a nine-month child development assistant program at an accredited vocational-technical institute;

(C) a current Level I or Level II pre-kindergarten license from the Minnesota Department of Education;

(D) a kindergarten through sixth grade teaching degree from an accredited university or college that includes a minimum of 30 hours of child development training; or

(E) documentation of a minimum of six months satisfactory experience as a full-time teacher at a Minnesota licensed group day care center.

(d) Accredited. For the purpose of this part "accredited" means a post- secondary institution or area vocational-technical institution recognized and listed by a regional, state, or national group approved by the division. To be approved, a group must meet the following criteria:

(1) it must be capable of conducting site visits to evaluate the facilities used by the program;

(2) it must be capable of evaluating the quality of the program and its facility;

(3) it must have standards which ensure that persons who complete the program have the knowledge and training to work as group family day care providers; and

(4) it must not be affiliated with any individual program, post- secondary institution, or vocational-technical institution.

(e) Day care insurance coverage. A provider shall have (before initial licensure):

(1) a certificate of insurance for the residence for general liability coverage for bodily injury in the amount of at least \$100,000 per person and \$250,000 per occurrence; or

(2) if the provider has liability coverage of lesser limits or no liability coverage the provider shall give a written notice of the level of liability coverage to parents of all children in care prior to admission or when there is a change in the amount of insurance coverage; and

(3) the provider shall maintain copies of the notice, signed by the parents to indicate they have read and understood it, in the providers records on the residence.

(4) Licensor will provide information and direction to obtain insurance.

110. Licensed Capacity. Child/Adult Ratios. Age Distribution Restrictions.

(a) Capacity limits. Family day care and group family day care providers shall comply with stated limits, which limits the total number of children and the number of preschoolers, toddler, and infants who may be in care at any one time, and provides for the number of adults who are required to be present.

(1) Providers shall be licensed for the total number of children, ten years of age or younger, who will be present in the residence at any one time. The licensed capacity must include all children of any caregiver when the children are present in a residence.

(2) Within the licensed capacity, the age distribution restrictions specify the maximum number of children under first grade, infants, and toddlers who may be in care at any one time.

(b) Specialized infant and toddler group family day care. In specialized infant and toddler group family day care, the caregivers must be 16 years or older.

(c) Newborn care. When a newborn is in care and only one adult caregiver is present, the newborn shall be the only child under 12 months of age and the provider shall not care for more than two other children at the same time unless another adult caregiver is also present or the newborn is the providers own.

(d) Helpers. A helper may be used in place of a second adult caregiver when there is no more than one infant or toddler present.

(e) Supervision and use of substitutes. A licensed provider must be the primary provider of care in the residence. Children in care must be supervised by a caregiver. The use of a substitute caregiver must be limited to a cumulative total of not more than 30 days in any 12 month period, and plan must be approved by case manager.

111. Child/Adult Ratios: Age Distribution Restrictions.

(A) Family Day Care:

Child/Adult Ratio			Age Restrictions
Licensed Capacity	Adults	Total Children under school age	Total infants and toddlers
10	1	6	Of the total children under school age, a combined total of no more than 3 shall be infants and toddlers. Of this total, no more than 2 shall be infants.

(B) Specialized Infant and Toddler Family Day Care:

(B1)	5	1	3	No more than 3 shall be infants.
(B2)	6	1	4	No more than 2 shall be infants.

(C) Group Family Day Care:

(C1)	10	1	8	Of the total children under school age, no more than 3 shall be infants and
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toddlers. Of this total, no more than 2 shall be infants.

(C2) 12 1 10

Of the total children under school age, no more than 2 shall be infants and toddlers. Of this total, no more than 1 shall be an infant.

(C3) 14 2 10

Of the total children under school age, a combined total of no more than 4 shall be infants and toddlers. Of this total, no more than 3 shall be infants.

A helper may be used in place of a second adult caregiver when there is no more than 1 infant or toddler present.

(D) Specialized Infant and Toddler Group Family Day Care:

9 2 7

Of the total children, no more than 4 shall be infants.

(E) Certified Child Care Provider

(F) Family Day Care License in a non-home setting

112. Reporting to Agency.

(a) Abuse, neglect reporting. All caregivers shall report any suspected physical abuse, sexual abuse, or neglect of a child to the police or county Social Services. If a caregiver has reasonable cause to believe a child has died as a result of physical or sexual abuse or neglect, the caregiver shall report this information to the county medical examiner or coroner.

(b) Other reporting. The provider shall inform the agency:

(1) within 30 days of any change in the regular membership of the household within the day care residence or the addition of an employee who will regularly be providing care;

(2) immediately of any suspected case of physical or sexual abuse or neglect;

(3) within 48 hours after the occurrence of a fire that requires the service of a fire department so the agency may determine continued substantial compliance with regulations;

(4) immediately after the occurrence of any serious injury or death of a child within the day care residence. A serious injury is one that is treated by a physician.

113. Day Care Training.

(a) Agency training role. The agency shall ensure:

(1) That the provider complies with the initial and ongoing training specified in this part;

(2) That the training specified is offered at times with consideration to child care provider availability;

(3) That training information is distributed to each provider who operates a residence in the county of the agency at least once a year.

(b) Initial day care training. All providers must complete (Before initial licensure):

(1) six to nine hours of training in a combined course of child-related first aid and cardiopulmonary resuscitation (CPR) provided by or approved by the American Red Cross, American Heart Association, or provided by a licensed physician or a registered or practical nurse trained to provide instruction in CPR and first aid. The training may be completed within one year of or one year prior to the date of initial licensure. Current certification in CPR and first aid by the American Red Cross or American Heart Association may be substituted for the initial CPR and first aid training specified.

(2) twelve hours of training, approved by the agency, in child development and child care related issues within one year of, or one year prior to, initial licensure.

(c) Ongoing training. Ongoing training subjects shall be selected from the following areas:

- (1) child development;
- (2) child abuse;
- (3) communicable disease prevention and control;
- (4) parent and provider relationships;
- (5) communication skills;
- (6) community services and resources for children;
- (7) methods guiding behavior or discipline;
- (8) home and fire safety and child injury prevention;

- (9) learning activities;
- (10) observation and assessment of children's needs;
- (11) care of bilingual or non-English speaking children;
- (12) care of special needs or gifted children;
- (13) business management.

(e) Adult caregiver and helper training. Each adult caregiver, other than the provider, who is employed in the residence on a regular basis, must participate in a minimum of six hours of training in a subject area specified above within one year after the date of initial employment, and a minimum of six hours of training every year after that as long as the adult is employed. Helpers who assist with care on a regular basis must complete six hours of training within one year after the date of initial employment.

114. Behavior Guidance.

(a) Methods. Caregivers shall give each child guidance which helps the child acquire a positive self-concept, self-control, and teaches acceptable behavior.

(1) The provider shall discuss methods of behavior guidance with parents at the time of admission and the parent's standards shall be considered by the provider within the context of this part when guiding the behavior of a child.

(2) Behavior guidance used by caregivers must be constructive, positive, and suited to age of the child. Methods of intervention, guidance, an redirection must be used.

(b) Standards. The following shall apply to all caregivers when guiding behavior in children.

(1) No child shall be subject to corporal punishment or emotional abuse. "Corporal punishment" means the non-accidental infliction of physical pain on a child by a caregiver. Corporal punishment includes, but is not limited to, rough handling, shoving, hair pulling, ear pulling, shaking, slapping, kicking, biting, pinching, hitting, and spanking. "Emotional abuse" means the infliction of verbal or psychological abuse on a child by a caregiver. Emotional abuse includes, but is not limited to, name calling, ostracism, shaming, derogatory remarks about the child or child's family, and threats when threatened, humiliate, or frighten the child.

(2) Food, light, warmth, clothing, and medical care shall not be withheld from the child.

(3) Discipline and punishment shall not be delegated to another child.