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(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...  
PUBLIC HEARING - COMMITTEE RECORDS**

**2005-06**

(session year)

**Assembly**

(Assembly, Senate or Joint)

**Committee on ... Children and Families (AC-CF)**

**COMMITTEE NOTICES ...**

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

**INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL**

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
  - (**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)
  - (**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

\* Contents organized for archiving by: Stefanie Rose (LRB) (May 2012)

PROPOSED ORDER  
OF THE DEPARTMENT OF HEALTH AND FAMILY SERVICES REPEALING AND  
RECREATING RULES

The Wisconsin Department of Health and Family Services proposes to repeal and recreate ch. HFS 57, and to create appendices A, B, C, and D, relating to group foster homes for children.

Analysis Prepared by the Department of Health and Family Services

**Statutes interpreted:** Chs. 115 and 118 and ss. 46.036, 48.02 (1) and (12), 48.023, 48.57, 48.619, 48.625, 48.627, 48.63, 48.64, 48.66, 48.67, 48.68, 48.685, 48.69, 48.70, 48.715, 48.74, 48.78, 48.981 (1) (d), (2), (3) and (7), 48.988, 48.989, 49.857 (2), 51.30 (4), 51.61, 73.0301, 121.53 (1), 165.83 (1) (b), 227.51 (3), 252.04, 346.62, 346.63, 347.48 (1), 347.48 (2m), 448.01 (5) and (6), 450.01 (15), 457.08, 938.02 (13), 938.34 (4h), and 948.02 (10m), Stats.

**Statutory authority:** Sections 48.67 and 227.11 (2) (a), Stats.

**Explanation of agency authority:** The Department is required under s. 48.66, Stats., to license and supervise any person who receives, with or without legal custody, 5 to 8 children to provide care and maintenance for those children. These persons are required by s. 48.625, Stats., to be licensed to operate a group home, to pay a licensing fee, and to meet the background check requirements in s. 48.685, Stats. In addition, s. 48.67, Stats., requires the Department to create rules that establish the minimum requirements for licensure and operating standards for group homes that are designed to protect and promote the health, safety, and welfare of the children in the care of licensees.

The Department's authority includes prescribing the form and content of the licensure application form; prescribing the form and content of records and information to be kept and reported by licensees; collecting licensing fees; investigating licensees, applicants for licensure, and non-client residents as defined in s. 48.685; inspecting and having unrestricted access to premises described in the license; issuing probationary licenses; issuing sanctions and penalties, including revocation and suspension of licensure, plans of corrections, and forfeitures; and prescribing license conditions.

**Related statute (s) or rule:** Sections 48.625, 48.627, 48.63, 48.64, 48.66, 48.67, and 48.68, Stats.

**Plain language analysis:**

In Wisconsin, 120 group foster homes provide residence, care, and services to children, adolescents and some young adults to age 19, if full-time in school and completing their high school education. The children, youth and young adults residing in group foster homes are under juvenile court jurisdiction and have one or more of the following conditions: emotional or behavioral disorders; drug, alcohol or other substance abuse problems; difficulty acquiring life skills; or a developmental disability.

Placements into group foster homes occur from youth correctional facilities and institutions, county human service or social service agencies and via the interstate compact for placement of children under ss. 48.988 and 48.989, Stats., or are made by courts or parents.

The Department is responsible under ss. 48.625, 48.66 and 48.67, Stats., for the licensure and supervision of group foster homes for children. Licensure requirements and standards for operating a group home are set forth in ch. HFS 57, Wis. Adm. Code. Chapter HFS 57 has not undergone any significant revision since its original promulgation in 1976. The proposed rules seek to update ch. HFS 57 to bring it into compliance with current drafting standards, statutes, and other rules and will add new provisions which support the intent of s. 48.67, Stats., to protect the health, safety, and welfare of children.

While the current group foster home rules address areas related to personnel, care of children, physical plant and environment, the service needs of children and youth have changed considerably since the original promulgation of the group foster home standards in 1976. The complex treatment-related needs and level of services required by children and youth currently being placed in group foster homes necessitates a revision of licensing standards.

The Department proposes provisions related to all of the following:

- Staffing levels and staff qualifications.
- The roles and responsibilities of sponsoring agencies.
- Caregiver background checks.
- Child abuse and neglect reporting responsibilities.
- Admission criteria, individual service plan components, and documentation and review standards.
- Behavior management policies.
- Physical plant, and safety and health of children and youth in care.
- Medical care.
- Policies and procedures for discharging residents.
- Respite care.
- Care for custodial parents and expectant mothers.
- Care for children six years of age and younger.
- Serious incident reporting.
- Patient rights under s. 51.61, Stats., and ch. HFS 94.
- Inspections, complaint investigations, and enforcement actions.

**Summary of, and comparison with, existing or proposed federal regulation:**

42 USC 671 (2004), Title IV. Grants To States For Aid And Services To Needy Families With Children And For Child-Welfare Services Part E, Federal Payments For Foster Care And Adoption Assistance, requires that in order to be eligible for payments under Title IV-E, states have a plan approved by the Secretary which as stated in paragraph (10), provides for the establishment or designation of a state authority or authorities which shall be responsible for establishing and maintaining standards for foster family homes and child care institutions which are reasonably in accord with recommended standards of national organizations concerned with standards for such institutions or homes, including standards related to admission policies, safety, sanitation, and protection of civil rights, and provides that the standards so established be applied by the state to any foster family home or child care institution receiving funds under this part or part B of this title. Further paragraph (20)(A) requires procedures for criminal records checks for any prospective foster or adoptive parent before the foster or adoptive parent may be finally approved for placement of a child on whose behalf foster care maintenance

payments or adoption assistance payments are to be made under the state plan. This paragraph includes group homes.

The Department was unable to identify any proposed federal rules that address "foster care" or "group foster care" during an Internet search of the Federal Register, conducted on May 10, 2004.

### **Comparison with rules in adjacent states:**

The following is a comparison of group home rules for Illinois, Iowa, Michigan, and Minnesota.

#### **Illinois**

The Illinois administrative rules used as a comparison to the Department's proposed group home rules are codified in 89 Ill. Adm. Code 403, Licensing Standards for Group Homes. In spite of the requirement that only licensed child welfare agencies be licensed to operate group homes in Illinois, the proposed rules and the Illinois group home rules are similar. Each set of rules include provisions on group home administration, licensing, staffing, resident care, and physical environment and safety. Differences in the rules are indicated below.

#### *Group home administration*

-The proposed rules include provisions concerning corporation-operated group homes. These provisions include requirements for initial operating expenses and additional license application requirements such as providing proof of authorization to do business in Wisconsin and requiring the application to be signed by an authorized representative. The Illinois rules do not expressly include provisions concerning corporation-operated group homes.

-The proposed rules include provisions relating to transporting residents. These provisions specify age of drivers that transport group home residents and include a requirement that licensees check the driving record of individuals who are assigned to transport residents. The proposed rules also prohibit a driver from transporting a resident if the driver has received specified violations within a 12-month period. The Illinois rules do not expressly contain provisions concerning transportation.

-The proposed rules require the licensee to report serious incidents and occurrences of the use of physical restraints ; admission of juvenile offenders to the group home; fire safety inspections; all vehicle accidents; discharge of residents placed under an interstate-compact agreement; and proof of insurance to the Department. Reporting serious incidents to the Department or placing agency must occur in writing within 48 hours of the incident. The Illinois rules contain similar provisions requiring the reporting of serious incidents, however, the Illinois rules do not expressly require the reporting of other situations. Serious incident reporting must be made in writing but may be made verbally and confirmed in writing within two working days of the incident.

-The proposed rules require that group homes maintain resident records for seven years after a resident is discharged from the group home or after the resident turns 19, whichever is later. The Illinois rules do not contain provisions concerning the length of time that resident records must be maintained.

-The proposed rules include admission and discharge provisions. The proposed rules also require that children admitted to a group home have a physical examination within 30 days after admission if an examination was not performed within 1 year of admission. Dental examinations are required within 30 days of admission unless performed within six months before admission and every six months after that time. Illinois requires children to have an examination within 30 days before placement in a group home unless placement is an emergency. In case of an emergency, an examination must be scheduled within five days and completed within 15 days of placement. All children must be screened for communicable diseases within 72 hours of placement. The Illinois rules do not contain additional provisions relating to admission and discharge of residents.

-The proposed rules allow the licensee to request an exemption from rules. The Illinois rules do not contain similar provisions.

-The proposed rules prohibit tobacco use. The Illinois rules do not contain provisions expressly prohibiting tobacco use.

-The Illinois rules include provisions on food products from home-raised animals. Menus must be posted up to a week in advance of a meal being served and records of meals served must be retained for one year. The proposed rules require that menus be written and kept on file for 30 days after the meals are served. The proposed rules do not include provisions concerning home-raised food products.

#### *Licensure and Enforcement:*

-Pursuant to the Illinois rules, licensure is prohibited for 12 months after a license is revoked or refused renewal. The proposed rules prohibit licensure for at least 2 years if the applicant has had a license revoked or denied. The proposed rules also identify the circumstances under which a license may be denied and enforcement actions may be taken. The Illinois rules do not identify similar circumstances, however, the rules do prescribe how enforcement actions should proceed.

-The Illinois rules do not contain enforcement provisions. The proposed rules contain extensive provisions relating to enforcement.

#### *Staffing:*

-The Illinois rules require that resident care staff have a high school diploma or GED and be at least 18 years old, if there is an on-site supervisor. Resident care staff must be at least 21 years old, if there is no on-site supervisor. In addition, staff is required to have a medical examination every two years. The proposed rules require staff to be 21 years old and have a bachelor degree or associate degree in a specified field; certification by a Department recognized certification authority; work experience; or completion of a traineeship program. A staff member may be 19 or 20 years old if the staff member is pursuing higher education in a specified field during the person's employment with the group home. Newly employed staff are required to have a medical examination and all staff are required to be in good physical and mental health at all times. The proposed rules do not include an explicit requirement for staff to have on-going physical examinations.

-The proposed rules specify that staff be trained in first aid, fire safety and evacuation, and infant and toddler training within a specified period of beginning employment. The proposed

rules also require that staff have at least 24 hours of continuing education per year. The Illinois rules only require that the content of on-going training be designed to familiarize staff with licensing standards. The Illinois rules do not specify the amount of on-going training that staff should have.

*Resident care:*

-The Illinois rules require group homes to train children in good health and nutrition practices; supervision of children during meal times; and that meals served to on-duty staff and residents be similar. The proposed rules do not expressly include provisions relating to supervision during meal times; meals served to on-duty staff; or training children in health and nutrition.

-The Illinois rules require that residents have an annual physical and dental examination. Residents who are ill or who are suspected of having a contagious disease must be separated from other residents. The proposed rules do not contain provisions on when physical examinations should occur after a resident's initial physical examination except for children under six. The proposed rules also do not contain explicit provisions concerning ill children.

-The proposed rules include explicit provisions on administering medication, including psychotropic medication, to residents. The Illinois rules do not contain express provisions relating to administering medication to residents.

-The Illinois rules prohibit children who are over six years old from sharing a bedroom with children of the opposite sex. The proposed rules prohibit males and females from sharing a bedroom regardless of age.

-The proposed rules contain specific provisions relating to behavior intervention and discipline of residents and specifically prohibit certain staff conduct in interactions with residents. The Illinois rules, used for this comparison, do not contain provisions relating to disciplining residents.

-The proposed rules include special provisions for the care of children under six; expectant mothers; and residents admitted to the group home for respite care. The Illinois rules do not expressly include similar provisions.

*Physical environment and safety:*

-The Illinois rules require group homes to conduct and document fire and evacuation training at least once every three months. The proposed rule requires documented monthly practice fire evacuation drills, with at least one drill held between midnight and 6 a.m., once every six months. In addition, the proposed rules require staff to personally alert and evacuate disabled residents. The Illinois rules do not include provisions that explicitly address disabled residents.

-Illinois requires that a group home have a minimum of 40 square feet of floor space for sleeping rooms per child. The proposed rule requires 200 square feet of living space for each resident and separately specifies the required square footage for bedrooms. The bedroom space requirements in the proposed rule for group homes licensed before the effective date of the proposed rule is 55 square feet for one child, 50 square feet for per child for two children, and 45 square feet per child for three or more children. The proposed rules require additional space for non-ambulatory residents or residents who use adaptive devices for ambulating, and custodial parents. For group homes licensed after the proposed rule's effective date, the bedrooms space requirements increase.

## Iowa

The Iowa administrative rules used in this analysis as a comparison to the Department's proposed group home rules are codified in s. 441 IAC 114, Licensing and Regulation of All Group Living Foster Care Facilities for Children. The proposed rules and the Iowa rules are similar. Each set of rules include provisions on group home administration, licensing, staffing, resident care, and physical environment and safety. Differences are indicated below.

### *Group home administration:*

-Iowa requires group homes to maintain financial solvency and to have sufficient resources for a 3-month operating period. Non-domestic organizations are required to have a designated representative within the state. The proposed rules require corporation-owned group homes to maintain financial solvency, to have sufficient funds for a one-year operating period, and specify a dollar amount that must be available for initial operating expenses. A corporate representative is required to sign the license application when an applicant for licensure is a non-domestic corporation. Proof of incorporation or authorization to do business in Wisconsin is also required.

-The proposed rules include provisions relating to transporting residents. These provisions specify the age of drivers that transport group home residents and include a requirement that licensees check the driving record of individuals who are assigned to transport residents. The proposed rules also prohibit a driver from transporting a resident if the driver has received specified violations within a 12-month period. The Iowa rules do not expressly contain provisions concerning transportation.

- The proposed rules require the licensee to report serious incidents and other activities or situations as appropriate to the Department, placing agency, or parent or guardian. The Iowa rules do not require reporting of serious incidents to the regulatory agency. Serious incident reporting is required to be made to the parents, guardians, the responsible agency or placing agency, and a physician as appropriate.

-Iowa requires group homes to submit resident records to its Department of Human Services in the event that the group home closes. The proposed rules do not prescribe the disposition of resident records if a facility closes. The proposed rules do require group homes to maintain resident records for seven years after the resident leaves the group home or when the child turns 19, whichever is later. The Iowa rules do not include provisions that specify the length of time resident records must be maintained.

-Iowa requires that a physical assessment of a resident be completed within 1 week of admission unless an assessment was completed within 1 year before admission. Dental examinations are required to be completed within 14 days of admission unless the examination was completed within six months before admission and the facility has the examination results. The proposed rules require physical examinations within 30 days after admission if an examination was not performed within 1 year of admission. Dental examinations are required within 30 days of admission unless performed within six months before the admission.

-Iowa's rules include provisions on food prepared off-site and provisions, and on large dishwashing facilities. The proposed rule does not include provisions on off-site food preparation or provisions on dishwashing facilities.

-The proposed rules contain provisions that allow licensees to request exemptions from rules. The Iowa rules do not contain similar provisions.

#### *Licensure and Enforcement:*

-The proposed rules prohibit licensure for at least two years if the applicant has had a license revoked or denied. The proposed rules also identify the circumstances under which a license may be denied and enforcement actions may be taken. The Iowa rules do not contain provisions on enforcement. Unannounced visits may be made when residents normally in the facility and awake. Visits at other times may occur only as a result of a specific complaint. The proposed rules do not include similar restrictions on when the Department may visit and inspect group homes.

-The proposed rules specify requirements for making an application for licensure. The Iowa rules do not include provisions on applications for licensure.

#### *Staffing:*

-Iowa's rules expressly require that group home personnel policies include provisions on affirmative action and equal opportunity, leave time, grievance procedures, employee evaluations, and due process for suspension or termination. The rules also require caseworker and caseworker supervisor services. Volunteers are required to have a character and reference check similar to that of employment applicants. Resident care staff must be at least 18 years old. No educational requirements are prescribed for resident care staff. Staff training and development plans must be updated annually and supervisory consultation must be available on a 24-hour basis. Iowa's rules do not expressly address training on infant and toddler care, CPR, fire safety, or universal precautions. This training is required by the proposed rules. The proposed rules do not require personnel policies to include affirmative action and equal opportunity, leave time, grievance procedures, employee evaluations, or due process for suspension or termination. The proposed rules have no provisions for character or reference checks for volunteers or for caseworker services. Staff is required to be 21 years old and have a bachelor's degree or associate degree in a specified field; certification by a Department recognized certification authority; work experience; or on the job training. A staff member may be 19 or 20 years old if the staff member is pursuing higher education in a specified field during the person's employment with the group home. There is no requirement in the proposed rules that require training and development plans to be updated.

#### *Resident care:*

-Iowa requires the use of a child's personal belongings to be supervised or limited as necessary. Iowa's rules also require a written policy on limitations of a resident's use of funds. The Iowa rules require a written description of work and vocational experiences available to children. The proposed rules do not expressly contain provisions relating to the supervision and limitation of the use of a resident's personal belongings, except that group homes are expressly prohibited from withholding a resident's funds for disciplinary reasons.

-The Iowa rules expressly prohibit the use of experimental drugs. The proposed rules do not contain provisions expressly prohibiting the use of experimental drugs. The proposed rules include separate provisions for the use of psychotropic drugs. The Iowa rules do not contain express provisions for the use of psychotropic drugs.

-The Iowa rules expressly prohibit corporal punishment. The rules require that the rationale for physical restraint and authorization for the use of restraint and staff action and procedures to protect the resident's rights be documented in the child's record. The proposed rules contain specific provisions relating to behavior intervention and discipline of residents and specifically prohibit certain staff conduct in interactions with residents. The proposed rules require that the use of restraint be documented and reported to the Department. Iowa's rules do not contain provisions requiring the use of restraints to be reported to the regulatory agency.

*Physical environment and safety:*

-Iowa's rules require that firearms be kept locked and inaccessible to children and written policies on use, purpose, and storage of the firearms. The proposed rules prohibit firearms, ammunition, or weapons of any kind in or around the group home. Group homes are required to have written policies and procedures prohibiting the use of firearms, ammunition or weapons of any kind.

-Iowa prohibits tobacco use during food preparation. The proposed rules prohibit smoking on group home premises.

-Iowa requires that fire or disaster evacuation drills be conducted and documented every six months. The proposed rules require documented monthly practice fire evacuation drills, with at least one drill held between midnight and 6 a.m., once every six months. The proposed rules include provisions on smoke detection systems and fire extinguishers. The proposed rules also require that staff personally alert and evacuate disabled residents. Iowa's rules do not contain provisions on smoke detection systems or fire extinguishers.

-Iowa requires a protective covering on all radiators, registers, steam and hot water pipes, electrical outlets, and wall switches. The proposed rules only require protective covering on these items in group homes that care for children under six years old. The proposed rules also require that group homes comply with applicable building code requirements and other laws.

-The proposed rules require 200 square feet of living space for each resident and separately specifies the required square footage for bedrooms. The bedroom space requirements in the proposed rules for group homes licensed before the effective date of the proposed rules is 55 square feet for one child, 50 square feet per child for two children, and 45 square feet per child for three or more children. The proposed rules require additional space for non-ambulatory residents or residents who use adaptive devices for ambulating and custodial parents. For group homes licensed after the effective date of the proposed rules, the bedroom space requirements for Iowa and Wisconsin are the same. Iowa requires a minimum of 60 square feet per child for multiple occupancy and a minimum of 80 square feet per child for single occupancy. The proposed rules require additional space for non-ambulatory residents or residents who use adaptive devices for ambulating, and custodial parents. The Iowa rules do not contain total living space requirements or a provision concerning space requirements for disabled residents.

-Iowa requires written policies and procedures concerning swimming pools, fishing ponds, and other bodies of water near the group home and accessible to children. The proposed rules do not include provisions concerning swimming pools or bodies of water.

**Michigan**

The Michigan administrative rules used as a comparison to the Department's proposed rules are codified in Mich. Adm. Code R. 400.4106 to 400.4183, Child Caring Institutions. The proposed rules and the Michigan administrative rules are similar. Each set of rules include provisions on group home administration, licensing, staffing, resident care, and physical environment and safety. Differences are stated below.

*Group home administration:*

-Michigan requires that group homes develop annual plans of financing that include projected income and expenditures and have evidence of sufficient financial resources to meet applicable licensing standards. The proposed rules do not contain provisions that expressly require plans of financing or projected income and expenditures. However, the proposed rules specify the dollar amount that a corporate-owned group home must have available for initial operating expenses. The Michigan rules do not expressly identify a dollar amount that is to be available for initial operating expenses

-The proposed rules require that each serious incident specified in the rules, including deaths be reported in writing to the Department and the placing agency within 48 hours of the occurrence. The Michigan rules require serious injury or illnesses requiring hospitalization to be reported to a parent or referring agency within 24 hours. The death of a resident must be immediately reported to the regulatory agency, parent or next of kin, and referring agency.

-The proposed rules include a requirement that licensees check the driving record of individuals who are assigned to transport residents. The proposed rules also prohibit a driver from transporting a resident if the driver has had specified violations within a 12-month period. The Michigan rules do not expressly require drivers' records to be checked or include any other provisions concerning transportation.

*Licensure and Enforcement:*

-The proposed rules prohibit licensure for at least two years if the applicant has had a license revoked or denied. The proposed rules also identify the circumstances under which a license may be denied and enforcement actions may be taken.

- In addition to requiring the group home to provide evidence of sufficient financial resources to meet applicable rules and a plan of financial accounting, the Michigan rules require that the group homes give evidence of the need for the type of program the facility proposes to provide. The proposed rules do not contain similar provisions.

*Staffing:*

-The Michigan rules require that employee records include an evaluation of each employee's performance within the employee's probationary period. The rules also require that an applicant's education be verified when minimum education requirements are specified in the rule. References from at least three non-relatives must also be checked. The proposed rules require group homes to check references from at least two non-relatives and at least three of the applicant's most recent employers. The proposed rules do not expressly require probation period evaluations or that education to be verified.

-The Michigan rules require that group homes verify that volunteers and job applicants are free from communicable tuberculosis within a 3-year period before employment. Michigan also

requires tuberculosis testing of employees to occur every three years. The proposed rules do not include requirements for tuberculosis testing beyond the initial testing before employment. The proposed rules do not require volunteers to be screened for tuberculosis. The proposed rules do however, require employees to be in good physical and mental health.

-Michigan requires resident care staff to have a high school diploma. Supervisory staff is required to have a bachelor's degree and two years work experience in a child caring institution; two years of college and three years of work experience in a child caring institution; or a high school diploma and four years of work experience in a child caring institution. Michigan's rules do not specify an age requirement for staff. The proposed rules require that resident care staff be at least 21 years old and have a bachelor's degree or associate degree in a specified field; certification by a Department recognized certification authority; work experience; or on the job training. Staff may be 19 or 20 years old if the staff member is pursuing higher education in a specified field during the person's employment with the group home.

-Michigan requires group home employees to have a minimum of 50 hours of planned training within the first year of employment and a minimum 25 hours of training annually. The proposed rules do not specify the number of hours of training that should be conducted in an employee's first year of employment, but do specify the type of training required during the first few months of employment. The proposed rules also specify that at least 24 hours of continuing education be provided or arranged for employees annually.

#### *Resident Care:*

-Michigan prohibits the disclosure of a resident's identity unless certain circumstances apply. The proposed rules do not expressly contain provisions relating to the disclosure of a resident's identity, but do require that information and records to be kept confidential.

-Michigan's rules restrict the stay of children under six in a group home to 30 days, unless it is documented that a longer stay is in the best interest of the child. The proposed rules do not include a similar limitation. Children are admitted to group homes under court order or voluntary agreement. The length of a resident's stay under a voluntary agreement is limited by statute to 15 days unless the resident is an expectant mother or custodial parent.

-Michigan's rules include provisions on behavior management rooms. The rules require that these rooms be approved for use and that the group home have policies and procedures for the rooms. The proposed rules do not expressly include provisions for behavior management rooms, but do prohibit group homes from locking residents in rooms or closets.

-Michigan prescribes a schedule of periodic physical examination of children by age. The proposed rules do not prescribe a schedule of periodic physical examination of residents except for children under six years of age. The proposed rules do require that residents have a physical examination within 30 days after admission if an examination was not performed within 1 year of admission. Dental examinations are required within 30 days of admission unless performed within six months before the admission.

-In Michigan residents of the opposite sex over five years old may not sleep in the same room. The proposed rules require that males and females not share the same room regardless of age.

#### *Physical environment and safety:*

-Michigan requires that the plans and specifications for remodeling, construction or conversions of a structure to be submitted to the regulatory agency for review and approval before for use as an institution. The proposed rules do not have similar provisions. The proposed rules do allow the Department to require a licensee to obtain an inspection of the premises, including the heating, electrical, plumbing, water and sewage systems as necessary to determine whether the health, safety and welfare of children are protected.

-Michigan's rules limit swimming to times when qualified lifeguards are on duty. The proposed rules do not include provisions on swimming.

-The proposed rule requires 200 square feet of living space for each resident and separately specifies the required square footage for bedrooms. The bedroom space requirements in the proposed rules for group homes licensed before the effective date of the proposed rule is 55 square feet for one child, 50 square feet per child for two children, and 45 square feet per child for three or more children. The proposed rules require additional space for non-ambulatory residents or residents who use adaptive devices for ambulating, and custodial parents. For group homes licensed after the effective date of the proposed rules, the bedroom space requirements increase. The Michigan rules require 70 square feet of space for single sleeping rooms and at least 45 square feet is required for multiresident sleeping rooms in new and converted institutions. The Michigan rules do not specify the square footage required for existing group homes, but do require that facilities have sufficient space.

-The proposed rules include specific provisions on smoke detection systems and fire extinguishers. The proposed rules also require that staff personally alert and evacuate disabled residents. The Michigan rules only require that facilities have fire alarm devices. Michigan also requires that facilities establish and follow written procedures for potential emergencies including fire.

## **Minnesota**

-The Minnesota administrative rules used as a comparison to the Department's proposed group home rules are codified in Minn. R. parts 9543.1000 to 9543.1060, Licensure of Programs. The proposed rules and the Minnesota administrative rules are very similar. Differences are stated below.

### *Group home administration:*

-The proposed rules require that residents have a physical examination within 30 days after admission if an examination was not performed within 1 year of admission. Dental examinations are required within 30 days of admission unless performed within six months before the admission. The Minnesota rules only recommend that children have medical and dental examinations before being admitted to a group home.

-Minnesota requires group homes to submit approval from the appropriate governmental authority when requests for variances are related to the fire, building, or health code. The proposed rules do not require similar approval, but the Department may require the licensee to obtain inspections of the premises related to the fire, building or health code.

### *Licensure and Enforcement:*

-The proposed rules prohibit licensure for at least two years if the applicant has had a license revoked or denied. The Minnesota rules do not expressly include a similar provision.

-The Minnesota rules expressly allow denial of licenses if variance requirements are not met. The proposed rules do not expressly allow group home licenses to be denied for failure to meet a variance requirement, however, circumstances under which a license may be denied may be interpreted as allowing such a denial.

#### *Staffing:*

-Minnesota's rules expressly prohibit individuals from abusing prescribed medications and from being under the influence of drugs or alcohol while caring for children. The proposed rules require group homes to have written policies and procedures that prohibit any person whose behavior gives reasonable concern for the health, safety and welfare of residents from being in the group home or on the premises.

-The proposed rules require group home staff to be at least 21 years old and to have a bachelor's degree or associate degree in a specified field; certification by a Department recognized certification authority; work experience; or on the job training. A staff member may be 19 or 20 years old if the staff member is pursuing higher education in a specified field during the person's employment with the group home. The Minnesota rules do not expressly specify age or educational requirements for group home staff.

#### *Resident Care:*

-The Minnesota rules require that residents have yearly medical and dental examinations. The proposed rules require that children under six receive routine examinations and immunizations.

#### *Physical Environment:*

-Minnesota requires that living and recreation space be at least 35 square feet of floor space per child, excluding bathrooms, halls, laundry rooms, bedrooms, furnace rooms, and kitchens. Sleeping rooms for up to four children must have at least 80 square feet of floor space, with minimum horizontal dimensions of at least eight feet. Sleeping accommodations for one child must be at least 60 square feet of floor space. The proposed rule requires 200 square feet of living space for each resident and separately specifies the required square footage for bedrooms. The bedroom space requirements in the proposed rules for group homes licensed before the effective date of the proposed rules are 55 square feet for one child, 50 square feet per child for two children, and 45 square feet per child for three or more children. The proposed rules require additional space for non-ambulatory residents or residents who use adaptive devices for ambulating and custodial parents. For group homes licensed after the effective date of the proposed rule, the bedroom space requirements increase.

#### **Summary of factual data and analytical methodologies:**

The Department assembled and consulted with an advisory council in developing the proposed rules. The advisory council included representatives from privately owned and operated group homes, counties, and professional associations. The group home types that were represented included group homes specializing in the care of expectant mothers or custodial parents and respite care. All programs affected by the proposed changes to ch. HFS 57 will receive notice from the Department indicating times, dates and locations of scheduled public hearings; as well

as instructions on how to obtain a copy of the proposed revisions and the procedure to make oral or written comments regarding the revisions.

The Department's regulatory approach is outcome-based, and where necessary for consistency, the Department uses a prescriptive approach. Licensees maintain control and responsibility for group home operations through the use of written procedures, which are required by the proposed rules. The proposed rules are written to protect the health, safety, and welfare of children residing in group homes.

**Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report:**

The repeal and recreation of ch. HFS 57 will affect group foster homes that are licensed to care for up to 8 children. As of May 2004, there were 120 licensed group foster homes. Most of these entities are "small businesses" as the term is defined under s. 227.114 (1) (a), Stats.

**Anticipated costs incurred by private sector:**

The Department anticipates that there may be costs incurred by some group foster homes when these rules are implemented, but that the overall costs will not be significant.

The proposed rules establish increased educational requirements for staff. The costs associated with increasing the qualifications of group home staff are not anticipated to be significantly greater than the costs group homes are currently incurring.

The proposed rules establish staff to child ratios and require awake overnight staff. The increased requirements are needed due to increasingly challenging behaviors exhibited by children and youth admitted to group homes and the need to ensure resident and staff safety. Data collected by the Department related to group home serious incidents that require medical and/or police intervention supports the need for increased staffing requirements. A survey of existing group homes shows that nearly 75% currently have two staff on duty during the first and second shifts and nearly 85% have awake overnight staff; providing evidence that licensees themselves recognize the need for close supervision and monitoring of residents. It should also be noted that many group homes (more than 50%) are not operating at capacity. Many are caring for five to six children rather than maintaining a capacity of eight. For group homes that will be required to hire additional staff; the cost is estimated to be about \$42,209 per year (based on an hourly wage comparable to a Resident Care Technician of \$10.309 x 2920 hours for an annual salary of \$30,102 x .4022 fringe benefits = a fringe rate of \$12,107 for a total annual cost of \$41,104 per employee).

The proposed rules establish physical plant requirements related to the required square footage for each resident. These changes are not anticipated to have a significant impact on existing group homes in that the increased square footage requirements will only be necessary for new facilities. For new facilities, the cost will not be significant and will only be a one-time expense.

The proposed rules require that there be two bathrooms in co-ed facilities. A survey of existing group homes indicates that there are only 4 co-ed facilities that do not have two bathrooms. Therefore, this change is not anticipated to have a significant financial impact.

**Effect on small business:**

The proposed rules will affect applicants for licensure and the 120 group homes currently licensed by the Department. Section 48.625, Stats., allows individuals, profit and non-profit corporations, and privately owned licensed child welfare agencies to operate a group home so long as the person or entity is licensed by the Department. A majority of the licensed group homes are operated by private entities. The remaining number of group homes is operated by licensed county agencies.

**Agency contact person:**

Sally Hanko Dees  
Division of Children and Family Services  
P.O. Box 8916  
Madison, WI 53708-8916  
608-266-0415

Order

SECTION 1. HFS 57 is repealed and recreated to read:

CHAPTER HFS 57

GROUP FOSTER CARE

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- HFS 57.015 Compliance with administrative rules and laws
- HFS 57.02 Exceptions to rules
- HFS 57.03 Inspections
- HFS 57.04 Definitions
- HFS 57.05 Group home program and policies
- HFS 57.06 Emergency planning and preparation
- HFS 57.07 Rates and bookkeeping
- HFS 57.08 Insurance
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- HFS 57.10 Pets and animals
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SUBCHAPTER II PERSONNEL

- HFS 57.14 Personnel requirements
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HFS 57.205 Principles for nurturing care

HFS 57.21 Staff to resident ratios and supervision

HFS 57.22 Resident activities

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HFS 57.25 Medical care

HFS 57.26 Dental care

HFS 57.27 Behavior intervention

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HFS 57.34 Non-ambulatory residents

HFS 57.35 Additional requirements for group homes providing respite care

HFS 57.36 Additional requirements for group homes providing care for custodial parents and expectant mothers

HFS 57.37 Additional requirements for care of children 6 years of age or younger

HFS 57.38 Resident records

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HFS 57.48 General conditions for approval of application

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HFS 57.51 Probationary and regular license

HFS 57.515 License provisions

HFS 57.52 Corporate licensure

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## SUBCHAPTER I GENERAL PROVISIONS

**HFS 57.01 Authority and purpose.** This chapter is promulgated under the authority of s. 48.67, Stats., to carry out licensing duties authorized under s. 48.66, Stats. The purpose of this chapter is to protect and promote the health, safety and welfare of children placed in group homes.

**HFS 57.015 Compliance with administrative rules and laws.** A person who is licensed under this chapter shall operate the group home in compliance with this chapter, the provisions of the license, and applicable state, federal, and local law.

**HFS 57.02 Exceptions to rules.** (1) The department may grant an exception to a non-statutory requirement of this chapter if the department determines that the exception will not jeopardize the health, safety, or welfare of any child served by the group home.

(2) A request for an exception to a non-statutory rule requirement shall be made in writing to the department and shall justify each reason for requesting an exception. The request shall also describe an alternative that meets the intent of the requirement.

Note: Requests for an exception should be sent to the regional licensing office listed in Appendix A that serves the group home.

**HFS 57.03 Inspections.** (1) The department may visit and inspect a group home and for such purpose shall be given unrestricted access to the premises.

(2) At the request of the department or a placing agency the licensee shall make available for inspection all records on foster care children received by the group home.

**HFS 57.04 Definitions.** In this chapter:

(1) "Agency-operated group home" means a group home for which the licensee is a public agency other than the department.

(2) "Background information disclosure form" means the department's form HFS 64, on which a person provides certain information concerning the person's background.

(3) "Behavior intervention" means any containment, management or treatment technique or procedure used to intervene in a resident's behavior when that behavior poses a clear and present danger of serious physical harm to the resident or to others.

(4) "Caregiver" has the meaning given in s. 48.685 (1) (ag), Stats.

(5) "Caregiver background check" means the search required by s. 48.685 (2), Stats.

(6) "Child" means a person under 18 years of age or a person age 18 years of age or older who remains under the jurisdiction of the juvenile court or who is being provided services by a child welfare or juvenile justice agency. For the purposes of this chapter, "child" includes a "juvenile" as defined in s. 938.02 (10m), Stats.

(7) "Child abuse" means abuse as specified in s. 48.02 (1), Stats.

(8) "Child neglect" has the meaning given in s. 48.981 (1) (d), Stats.

(9) "Corporation-operated group home" means a home for which the licensee is a non-profit or proprietary corporation that operates one or more group homes.

(10) "Custodial parent" means a resident whose child resides in the group home with the resident.

(11) "Department" means the department of health and family services.

(12) "Emergency" means serious medical incidents, fire, tornadoes, flooding, and loss of services to the group home such as electricity, heat, water or telephone, or threats to the premises or its occupants.

(13) "EPSDT" means early and periodic screening, diagnosis and treatment of persons under s. HFS 107.22.

(14) "Family-operated group home" means a home for which the licensee is one or more individuals who operate not more than one group home.

(15) "Fit and qualified" means displaying the capacity to successfully nurture and care for children and shall not include a history of a civil action, criminal conviction or administrative rule violation that substantially relates to the care of a child; a history of exercising unsound judgment or abuse of alcohol or drugs.

Note: For help in determining whether a civil action, criminal conviction, or administrative rule violation substantially relates to the care of children consult s. HFS 12.06.

(16) "Group home" means a facility operated by a person licensed by the department pursuant to s. 48.625, Stats., to provide 24-hour care for 5 to 8 residents.

(17) "Group home manager" means a person who is responsible for the day-to-day operations of a group home.

(18) "Guardian" means a person or agency appointed by a court to have the duties and authority of guardianship as described under s. 48.023, Stats.

(19) "HealthCheck provider" means a provider certified under ch. HFS 105, to provide EPSDT health assessment and evaluation services.

(20) "Household member" means any person who resides, or is expected to reside, at the group home, who is not a resident of the group home and who has or may have direct contact with group home residents, whether or not related to the licensee.

(21) "House rules" means a summary of the group home's standards related to resident conduct, responsibilities, expectations, and daily activities.

(22) "Law enforcement agency" has the meaning given in s. 165.83 (1) (b), Stats.

(23) "Legal custodian" means a person, other than a parent or guardian, or an agency to whom legal custody of a child has been transferred by a court, but does not include a person who has only physical custody of a child.

(24) "Legal custody" has the meaning given in s. 48.02 (12), Stats.

(25) "Licensee" means a person licensed by the department pursuant to s. 48.66, Stats., to operate a group home.

(26) "Parent" has the meaning specified in s. 48.02 (13), Stats., or in s. 938.02 (13), Stats.

(27) "Permanency plan" means the plan required under s. 48.38 (2), Stats., that is designed to ensure that a child placed in a group home is safely reunified with the child's family whenever appropriate, or that the child quickly attains a safe placement in a home providing long-term stability.

(28) "Physical custody" means actual custody of the person in the absence of a court order granting legal custody to the physical custodian.

(29) "Physician" has the meaning given in s. 448.01 (5), Stats.

(30) "Placing agency" means an agency that is licensed under s. 48.60, Stats., and ch. HFS 54, to place children into adoptive homes, foster homes or group homes, to accept guardianship of children or to license foster homes, a county department with powers and duties as defined under s. 48.57, Stats., the department, the Wisconsin department of corrections or any other authorized placement authority.

(31) "Premises" means the physical plant of the group home, the tract of land on which the group home is situated and any other building or structure on that land.

(32) "Program director" means a person that is either on staff or under contract with the group home to provide program oversight and case management for residents of the group home.

(33) "Relief help" means an individual that is used by the licensee on an irregular and infrequent basis for brief periods of time to provide care for residents.

Note: An individual regularly scheduled to replace a resident care staff on days off or for prolonged periods is considered a resident care staff.

(34) "Resident" means a child placed for care and maintenance in a group home under a court order or by a voluntary agreement.

(35) "Resident care staff" means an individual employed by a licensee to be the usual and primary caregiver of residents.

(36) "Resident rights" means the rights specified in s. 51.61, Stats., and ch. HFS 94, of a resident who receives a service for alcohol or drug abuse, a mental illness, or a developmental disability or for residents not receiving those services, rights and grievance procedures that are comparable to those found in s. 51.61, Stats., and ch. HFS 94.

(37) "Respite care" means maintenance and care of a child with emotional, behavioral, cognitive, physical, or other condition including being at risk of abuse or neglect, placed in a group home for a period of 15 consecutive days or less.

Note: Respite care can be used to relieve a parent or other care provider from the demands of ongoing care when a child is at risk of abuse or neglect or in other crisis situations or both.

(38) "Serious juvenile offender" means a person to whom the court has given the disposition specified in s. 938.34 (4h), Stats.

(39) "Sponsoring agency" means a child welfare agency licensed to place children in group homes, a county agency specified in ch. 48.56(1), Stats., or the department; which enters into a written contract with the licensee.

(40) "Staff member" means a group home director or manager, resident care staff, or relief help.

(41) "Supervision" means guidance of the behavior and activities of a resident by a staff member who is within sight or sound of a resident.

(42) "Treatment plan" means a written plan of services to meet the specific treatment goals and care needs of a resident.

(43) "Universal precautions" means measures taken to prevent transmission of infection from contact with blood or other potentially infectious materials as recommended by the U.S. public health service's centers for disease control and adopted by the U.S. occupational safety and health administration (OSHA) as 29 CFR 1910.1030.

(44) "Volunteer" means an individual who provides services to a group home but is not paid for those services.

Note: This definition does not mean that a volunteer cannot be reimbursed for expenses.

**HFS 57.05 Group home program and policies.** (1) PROGRAM STATEMENT. Each group home shall have a written program statement that shall include all of the following:

- (a) A description of the group home's purpose and philosophy.
- (b) A description of the services available through or provided by the group home.
- (c) A description of the type, age, and sex of the resident population served by the group home.

Note: Types of resident population refers to a description of the population served by the group home, for example whether the group home serves children with developmental

disabilities; emotional or behavioral disorders; alcohol, drug or other substance abuse problems; juvenile delinquents; correctional aftercare placements; custodial parents; expectant mothers; respite care; or children under 6 years of age.

(d) A description of the daily activities available to residents.

(e) A description of house rules for expected resident conduct.

(f) A non-discrimination statement that indicates that the group home does not discriminate against a resident because of race or cultural identification, sex, age, color, creed, ancestry, national origin, disability, political affiliations, or religious beliefs.

(2) POLICIES AND PROCEDURES. In addition to the emergency planning and personnel policies and procedures required under ss. HFS 57.06 and 57.17, a group home shall have written policies and procedures that include all of the following:

(a) Criteria for levels of supervision of on-premise and off-premise activities of residents.

(b) Confidentiality of resident records.

(c) Medication administration, storage and disposal.

(d) Prohibiting from the premises any person whose behavior gives reasonable concern for the safety of residents.

(e) The use of universal precautions.

(f) Behavior intervention.

(g) Suicide prevention.

(h) Serious incident reporting requirements.

(i) Notifying the appropriate local law enforcement agency if a resident leaves the group home without permission or fails to return to the group home after an approved leave.

(j) Resident access to confidential family planning services.

(k) House rules that shall include all of the following:

1. A description of acceptable and unacceptable resident conduct.

2. Curfew requirements.

3. A description of the consequences for violations of house rules.

4. Procedures related to a resident's absence from the group home without permission.

(L) Prohibiting smoking on the group home premises and in vehicles used to transport residents.

(m) For group homes that serve custodial parents, policies on visitation between a child of a resident and that child's non-custodial parent.

(n) Prohibiting the use of resident labor as a substitute for employment of a sufficient number of competent persons to operate and maintain the group home.

(o) A workable plan for contacting the licensee or a staff member when necessary.

**HFS 57.06 Emergency planning and preparation.** (1) The licensee shall have written procedures for all of the following:

(a) In case of emergency, contacting the placing agency, parent, guardian, or legal custodian, emergency service providers, a resident's health care provider, the licensee, and staff members.

(b) Fire safety, evacuation drills and response, including evacuation of residents with limited mobility, limited understanding, or hearing impairment in case of fire as specified in s. HFS 57.42 (2) (c), or other emergency.

(2) The telephone number of each of the following emergency service providers shall be posted by each telephone on the premises. If the emergency service providers listed below can be reached by dialing the emergency number "911", then the emergency telephone number "911" may be posted in place of separate emergency provider numbers.

(a) Ambulance service.

(b) Fire department.

(c) Police department.

(d) Hospital.

(2m) The telephone number of the poison control center shall be posted by each telephone on the premises.

(3) Each group home and vehicle used to transport residents shall have a first aid kit or first aid supplies including gauze and adhesive bandages, tape and latex or vinyl gloves; and that will provide care to the maximum number of residents allowed under the group home license. The first aid kit or first aid supplies shall be inventoried and re-supplied after each use.

(4) Phone numbers of staff members to be notified in case of an accident, the name, address, and telephone number of each resident's health care provider and written consent from the resident's parent, guardian, or legal custodian for emergency medical treatment shall be carried in a vehicle when transporting a resident.

**HFS 57.07 Rates and bookkeeping** (1) (a) CORPORATION-OPERATED GROUP HOMES. A corporation-operated group home shall establish a per client rate for services pursuant to department budget guidelines. The licensee shall arrange for an annual audit report for the group home from a certified public accountant pursuant to s. 46.036 (4) (c), Stats.

Note: Department budget guidelines can be obtained by calling or writing any one of the regional licensing offices listed in Appendix A.

(b) The corporation shall be responsible for the secure and judicious use of the funds of the group home. Policies and practices shall be in accord with sound budgeting, disbursement and audit control procedures.

(c) The corporation shall maintain a system of business management and staffing to ensure maintenance of complete and accurate accounts, books, and records.

(d) Upon request the corporation shall provide the department with financial information about the corporation or about any group home operated by the corporation.

(2) **FAMILY-OPERATED GROUP HOMES.** A family-operated group home shall establish and maintain a bookkeeping system that accurately identifies income and disbursements for each resident by categories as defined in the uniform foster care rate setting standards. Resident funds shall not be co-mingled with the funds or property of the licensee or household members, or others.

Note: Uniform foster care rate setting standards are available from county social service or human service departments.

(3) **AGENCY-OPERATED GROUP HOMES.** An agency-operated group home shall establish a per client rate for services according to department budget guidelines. The licensee shall arrange for an annual audit report for the group home from a certified public accountant in accordance with s. 46.036 (4)(c), Stats.

Note: Department budget guidelines can be obtained by calling or writing any one of the regional licensing offices listed in Appendix A.

**HFS 57.08 Insurance.** (1) A corporation-operated or an agency-operated group home shall purchase and maintain insurance that provides coverage of the premises and of the risks of the group home in the provision of services as identified by an insurer licensed by the office of the commissioner of insurance.

(2) Unless waived by the department under s. 48.627 (2) (b), Stats., a family-operated group home shall purchase and maintain homeowner's or renter's liability insurance that provides coverage for negligent acts or omissions by children placed in the group home that results in bodily injury or property damage to third parties pursuant to s. 48.627 (2) (a), Stats.

(3) The licensee shall purchase and maintain motor vehicle bodily injury and property damage liability insurance that provides coverage on each motor vehicle used to transport residents. The amount of motor vehicle insurance purchased under this subsection shall be consistent with the amounts specified under s. 121.53 (1), Stats.

**HFS 57.09 Weapons.** No weapons, firearms, or ammunition may be on the premises.

**HFS 57.10 Pets and animals.** (1) Any animal that is kept on the premises as a pet shall be vaccinated against rabies as determined appropriate by a veterinarian and shall be tolerant of residents.

(2) A pet suspected of being ill or infected shall be treated immediately for its condition or removed from the group home.

(3) Pens, cages, litter boxes and outside areas used by pets shall be kept clean.

(4) Each pet shall be kept and handled in a manner that protects the safety and well-being of residents and the pet.

(5) No pet may be allowed in any area while food is being prepared.

**HFS 57.11 Telephone.** A telephone that is operational shall be available on the premises at all times.

**HFS 57.12 Transportation.** (1) The licensee shall provide safe transportation of residents.

(2) Except as provided in sub. (3) each staff member or volunteer that transports a resident shall be at least 21 years of age, have at least one year of experience as a licensed driver, and hold a current Wisconsin operator's license for the type of vehicle driven.

(3) Before any staff member or volunteer may transport a resident, the person's driving record shall be obtained, reviewed by the licensee and kept on file at the group home. A person's whose driving record shows any one of the violations specified in ss. 346.62 or 346.63, Stats., having occurred in the last 12 months may not transport a resident.

Note: To obtain a copy of a driving record, contact the Bureau of Driver Services, Department of Transportation, P.O. Box 7918, Madison, WI 53707.

(4) The number of residents transported in a vehicle at any one time may not exceed the passenger limit specified by the vehicle's manufacturer.

(5) Any vehicle used by a staff member or volunteer to transport residents shall be in safe operating condition. At 12-month intervals the licensee shall provide the department with evidence of a vehicle's safe operating condition on a form CFS-0052.

**Note:** Form CFS-0052, Vehicle Safety Inspection, provides instructions on who may conduct the inspection and is used to record evidence of a vehicle's safe operating condition. The form may be obtained from the Department's website at [dhfs.wisconsin.gov/forms/index.htm](http://dhfs.wisconsin.gov/forms/index.htm) or from the Forms Center, DCFS, P.O. Box 8916, Madison, WI 53707-8916.

(6) Vehicles shall be clean, uncluttered, and free of obstructions on the floors, aisles and seats.

(7) Vehicles shall have seat belts as prescribed under s. 347.48 (1), Stats. Seat belts shall be worn by vehicle occupants as required under s. 347.48 (2m), Stats. Seat belts shall not be shared.

(8) Each child who is 4 years of age or younger or whose weight is 40 pounds or less shall be transported in accordance with the requirements under s. HFS 57.37 (11).

(9) Each motor vehicle used to transport residents shall be insured as required under s. HFS 57.08 (3).

**HFS 57.13 Licensee reporting requirements.** A licensee shall report all of the following to the department:

(1) **SERIOUS INCIDENTS.** The licensee shall report a serious incident by telephone, mail or facsimile to the regional office that serves the group home within 72 hours after each occurrence including all of the following:

(a) Any incident of suspected child abuse or neglect by an employee of the group home, volunteer of the group home or household member of the group home; including a report made to a law enforcement agency, a county department of social or human services, or a child welfare agency.

(b) Each incident requiring law enforcement services at the group home or that involves a resident.

Note: Examples of serious incidents requiring law enforcement services include acts such as physical or sexual assault, drug related offenses, damage or theft of property or weapons offenses. Serious incidents also include incidents in which a runaway resident is held by law enforcement for an offense such as assault, theft or weapons violations.

(c) The use of a restraint on a resident. A report on the use of a restraint shall be made following the requirements in s. HFS 57.27 (3) (c).

(d) Any injury or trauma to a resident or staff member for which the resident or staff member requires the services of a licensed medical professional including all of the following:

1. A broken bone.
2. A burn.
3. A concussion.
4. A wound requiring stitches.
5. The ingestion of poison or drug overdose.
6. A traumatic incident such as a resident who nearly drowns or suffocates or who goes into shock.

(e) An error in medication administration by either a resident or staff member.

(f) The death of a resident.

(g) A suicide attempt by a resident.

(h) Outbreak of a reportable communicable disease as defined in ch. HFS 145.

Note: Information regarding reportable communicable diseases can be obtained from local county public health departments.

(i) A condition or situation that requires the removal of residents from the group home or the closure of the group home.

(j) Any physical damage to the premises that would affect compliance with this chapter including any structural damage that would affect the safe shelter of children or any failure in the heating, cooling, electrical, plumbing, or smoke or fire detection system that is not repaired or that cannot be repaired within 24 hours after the failure occurs or becomes known.

(k) A fire on the premises that requires the services of a fire department.

Note: Form CFS 2146, Serious Incident Report, may be used to report serious incidents. The form can be obtained from the Department's website at [dhfs.wisconsin.gov](http://dhfs.wisconsin.gov) or by writing or telephoning any one of the regional offices listed in Appendix A.

(2) DISCHARGE OF RESIDENTS FROM OUT-OF-STATE. At the end of each month, the licensee shall report in writing to the department's interstate compact office of each resident from out-of-state that is discharged from the group home that month. The report shall include all of the information specified in s. HFS 57.20 (1) (a) to (e).

**Note:** Reports of discharged residents from out-of-state may be mailed or faxed to Interstate Compact on Placement of Children, Division of Children and Family Services, 1 West Wilson St., P.O. Box 7851, Madison, WI 53707-7851. The facsimile number is (608) 264-6750.

(3) VEHICLE ACCIDENTS. Within 7 calendar days after an accident involving a vehicle transporting a resident, the licensee shall submit a copy of any resulting police report to the department.

(4) PLACEMENT OF JUVENILE OFFENDERS. The group home shall notify the regional licensing office that serves the group home in writing, by phone or facsimile within 48 hours of the admission of each serious juvenile offender as defined in HFS 57.04 (38) unless that is the primary client group served by the group home.

(5) BEHAVIOR INTERVENTION. A licensee shall report to the department each incident of physical restraints used with a resident within 48 hours of each occurrence.

Note: Form CFS 2146, Serious Incident Report, may be used to report physical restraints. The form can be obtained from the Department's website at [www.dhfs.wisconsin.gov](http://www.dhfs.wisconsin.gov) or by writing or telephoning any one of the regional offices listed in Appendix A.

(6) PROOF OF INSURANCE. The licensee shall annually submit to the department proof of insurance purchased and maintained pursuant to HFS 57.08.

(7) DISCONTINUING OR CHANGING OPERATIONS. (a) The licensee shall notify the department in writing at least 30 calendar days before discontinuing operation of a group home. The notice shall include the discharge summary specified in s. HFS 57.20 (1) and the post-discharge plan required under s. HFS 57.23 (3) (b), for each resident.

(b) The licensee of a corporation-operated group home shall notify the department within 30 calendar days of any change in the executive responsible for the group home, the chairperson of the board or in the corporate structure.

(8) **PLANS OF CORRECTION.** If requested by the department, the licensee shall submit a plan of correction for cited violations of this chapter or ch. 48, Stats., in a format provided by the department. The plan of correction must be received by the date specified by the department and be approved by the licensing representative.

Note: The licensing representative will notify the licensee at the conclusion of a licensing visit or within 10 working days after the licensing visit, if a plan of correction is required, the date the plan of correction is to be received by the Department, and format.

(9) **FIRE SAFETY INSPECTION.** The licensee shall submit annually to the department, the results of the fire safety inspection required under s. HFS 57.42 (4).

(10) **BACKGROUND INFORMATION REPORTING.** (a) When an individual that is not a client becomes a household member or is expected to become a household member, the licensee, as soon as possible, but no later than the department's next business day, shall submit to the department a background information disclosure form for the individual.

Note: The background information disclosure form (form HFS 64) may be obtained from the Department's website at [dhfs.wisconsin.gov](http://dhfs.wisconsin.gov) or by writing or telephoning any regional licensing office listed in Appendix A.

(b) As soon as possible but no later than the department's next business day, the licensee shall report to the department for the licensee and each household member who is 10 years old or older all of the following background changes:

1. The person has been convicted of any crime.
2. The person has been or is being investigated by any governmental agency for any act, offense or omission, including an investigation related to the abuse or neglect, or threat of abuse or neglect, to a resident or other individual; or an investigation related to misappropriation of a client's property.
3. The person has a governmental finding substantiated against them of abuse or neglect of a client or of misappropriation of property.
4. In the case of a position for which the person must be credentialed by the department of regulation and licensing, the person has been denied a license or the person's license has been restricted or otherwise limited.
5. The person has pending criminal charges.

(11) **WELL WATER NITRATE LEVELS.** For group homes with expectant mothers or infants under 6 months old, the licensee shall report water nitrate levels as required in ss. HFS 57.36 (9) and HFS 57.37 (8).

Note: Reports submitted under this section should be submitted to the regional licensing office listed in Appendix A that serves the group home.

**HFS 57.135 Responsibility to placing agencies.** (1) The licensee shall notify the placing agency as soon as possible of any emergency involving the resident. This includes serious illness or injury requiring medical treatment, death of a resident or child, unauthorized absence from the home, use of physical restraint, physical intervention, or any other similar crisis related to a group home resident. This requirement in does not relieve the licensee from first taking whatever action is necessary to protect the health, safety and welfare of the resident.

(2) The licensee shall keep the placing agency informed of the resident's progress while in care and shall consult with the agency regarding treatment plans and treatment plan reviews, care, training, and plans for the resident whenever more than the day-to-day routine is involved.

## SUBCHAPTER II PERSONNEL

**HFS 57.14 Personnel requirements.** (1) **DEFINITIONS.** In this section, "college" or "university" means an institution which is accredited on a degree granting level by an accrediting agency which is listed by the United States department of education as a nationally recognized accrediting agency.

(2) **AGE REQUIREMENT.** A staff member hired or contracted for on or after the effective date of this chapter [revisor to insert effective date] shall be at least 21 years old. Except as provided in sub. (4) (a), a staff member who is 19 or 20 years old may be hired or employed, if during the individual's course of employment the individual is enrolled in and regularly attends a college or university with a major in any of the following:

- (a) Social work.
- (b) Sociology.
- (c) Special education.
- (d) Psychology.
- (e) Counseling and guidance.
- (f) Criminal justice.
- (g) Any other area in the human services field as approved by the department.

(3) **HEALTH** (a) Each staff member and volunteer shall be physically, mentally and emotionally able to provide responsible care for residents and shall not pose an imminent threat of harm to residents or to the quality and manner of their care.

(b) If the department has reason to believe that the physical or mental health of a staff member or an applicant for employment may endanger a resident, the department may require that a written statement be submitted by a physician or, if appropriate, by a licensed mental health professional that certifies the condition of the individual and the possible effect of that condition on the group home or the residents in care.

(4) **REQUIRED STAFF.** A licensee shall staff each group home with all of the following personnel:

(a) A program director. The program director shall be at least 21 years old, have a 4-year college degree in one of the major fields of study specified in sub. (2), and 2 years of supervised child welfare work experience. The program director function can be provided by a sponsoring agency. The program director or sponsoring agency shall oversee program operation and development and do all of the following:

1. Review the appropriateness of admission of each child to the group home.
2. Participate in developing, reviewing, and updating resident assessments and treatment planning.
3. Provide technical assistance to the resident care staff and agencies.
4. Periodically review and update group home policies and procedures.

Note: A sponsoring agency is defined in s. HFS 57.04 (39) to mean a child welfare agency licensed to place children in group homes; county agency specified in ch. 48.56 (1), Stats.; or the department, which enters into a written contract with the licensee.

(b) A group home manager. The group home manager shall oversee the day-to-day operations of the group home. The group home manager shall have the qualifications specified in par. (c). A group home manager may also function as the program director if the group home manager meets the requirements specified in par. (a).

(c) The licensee shall employ at least 2 resident care staff. Additional resident care staff shall be employed in numbers sufficient to meet the staff to resident ratios specified in ss. HFS 57.21 and 57.36 (6) and for any off-premise activities. Resident care staff shall be responsible for the day to day care and supervision of residents and shall have at least one of the following qualifications:

1. A bachelor or associate degree from a college or university in any one of the majors specified in sub. (2).
2. At least one year of full-time experience working in a formal program with the type of resident population served by the group home.
3. Certification as a child and youth care worker under the standards of the Wisconsin Association of Child and Youth Care Professionals or other department-recognized certifying authority.

Note: A copy of the standards of the Wisconsin Association of Child and Youth Care Professionals can be obtained from the [www.wacycp.org/](http://www.wacycp.org/) or by contacting WACYCP at 161 W. Wisconsin Avenue, Milwaukee, WI 53202; telephone (414) 227-3130. Information regarding other recognized certifying authorities may be obtained by contacting any regional licensing office listed in Appendix A.

4. Completion of a traineeship program in which the resident care staff has worked with qualified, experienced resident care staff for at least the first 80 hours of employment and received orientation training as specified under s. HFS 57.16 (1) (a), before working independently with residents.

(5) RELIEF HELP. The licensee may use relief help to temporarily provide care and supervise residents when the number of resident care staff is not sufficient to meet the staff to resident ratios specified under ss. HFS 57.21 or 57.36 (6).

(6) VOLUNTEERS. Each volunteer used by the group home shall be supervised by a staff member. Before a volunteer may begin performing activities, the licensee shall do all of the following:

(a) Orient the volunteer to the activities that the volunteer may perform as specified in the group home's personnel policies and procedures.

(b) Provide each volunteer with the confidentiality requirements specified under s. HFS 57.39 and the child abuse and neglect reporting requirements specified under s. HFS 57.18 (1).

**HFS 57.15 Hiring and employment.** (1) In this section a "physician's assistant" has the meaning in s. 448.01 (6), Stats.

(2) Before an applicant begins employment, the licensee shall do all of the following:

(a) Conduct and document a caregiver background check pursuant to s. 48.685, Stats., and ch. HFS 12, on each applicant.

**Note:** Forms for conducting a caregiver background check, including the background information disclosure form (form HFS 64) may be obtained from the Department's website at [www.dhfs.wisconsin.gov](http://www.dhfs.wisconsin.gov) or by writing or telephoning any regional field office listed in Appendix A.

(b) Obtain favorable references from at least 3 non-relatives, with documentation by letter from the reference or by documentation in the record of verbal contact with a reference. Documentation shall include the date contact was made, the name of the individual conducting the reference, the name of the individual contacted, and a summary of the response.

(c) Upon hire and before working with residents, require each staff member, except relief help to have a tuberculosis test and provide certification from a physician, physician assistant, or a HealthCheck provider that the staff member meets the minimum physical requirements of the position and that the staff member is in general good health.

**Note:** A HealthCheck form may be obtained by contacting the local public health department. Physical examination report forms can be obtained by contacting the regional licensing office listed in Appendix A.

(d) Make a determination of whether the applicant is fit and qualified.

**Note:** The term "fit and qualified" is defined in s. HFS 57.04 (15) to mean person who displays the capacity to successfully nurture and care for children and who does not have a history of a civil action or criminal conviction or administrative rule violation that substantially relates to the care of a child, or who exercises unsound judgement or who abuses alcohol or drugs. For help in determining whether a civil action, criminal conviction, or administrative rule violation substantially relates to the care of children, consult s. HFS 12.06.

(e) Nothing in this section requires a licensee to hire an applicant for employment or to retain any staff member.

(3) The licensee shall require each staff member to complete a background information disclosure form and shall conduct a caregiver background check on each staff member every 4 years or at any time within that period.

(4) A licensee may not hire or employ a person who has had a group home license revoked or denied within the last 2 years.

**HFS 57.16 Training.** (1) **ORIENTATION** (a) *Information to be provided to staff members.* Within the first week of hire, the licensee shall provide the staff member with all of the following:

1. A job description created under s. HFS 57.17 (1) (a). The job description shall be signed and dated by each staff member upon receipt by the staff member.

2. The group home's program statement and policies and procedures, including the personnel policies and procedures created under s. HFS 57.17 (1).

3. Requirements of child abuse and neglect reporting specified under s. 48.981 (2) and (3), Stats., and information on how to identify and report abuse or neglect situations.

4. Instruction on how to use fire extinguishers, and on emergency and evacuation procedures

5. Any other information that would orient the staff member to the group home.

(b) *CPR and first aid training.* Within 6 months after the date of hire, each staff member shall successfully complete first-aid training and cardio-pulmonary resuscitation training from an American Red Cross or a program certified by the American Red Cross or American Heart Association. The certification shall be renewed in accordance with training guidelines.

(c) *Fire safety and evacuation training.* Within 6 months after the date of hire, each staff member hired or contracted for on or after the effective date of this chapter (revisor to insert effective date) shall successfully complete fire safety and evacuation training provided by the Wisconsin Technical College System or a comparable course approved by the department.

(d) *Infant and toddler care.* Before a staff member or volunteer may provide care and supervision for an infant or toddler as defined under s. HFS 57.37 (2) (a) and (b), the staff member or volunteer shall complete the training specified under s. HFS 57.37 (4).

(2) **CONTINUING EDUCATION.** A licensee shall provide or arrange for at least 24 hours of continuing education annually to each staff member. The training shall pertain to caring for the resident population served by the group home. Types of training that may be acceptable to the department to meet continuing education requirements include all of the following:

(a) Formal courses resulting in credits or continuing education units.

(b) Training provided by the licensee, a staff member, or a volunteer. A summary of the training syllabus shall be kept on file at the group home.

(c) Workshops, conferences, seminars, lectures, correspondence courses, or home study courses.

(d) Time spent reading and viewing educational materials pertaining to the resident population served by the group home may be counted for up to 5 hours of continuing education per year.

**HFS 57.17 Personnel policies and records.** (1) POLICIES. A licensee shall have written personnel policies and procedures. The policies and procedures shall include all of the following:

(a) The creation and use of job descriptions that describe the staff member's roles, responsibilities and duties.

(b) An orientation plan that shall include how and when orientation of new hires and volunteers will be conducted and documented.

(c) Work schedules of each staff member and policies on the use of relief help.

(d) Continuing education and training requirements.

(e) Designation of the chain of command or supervisory structure in the group home.

(f) A requirement that each staff member notify the licensee as soon as possible, but no later than the staff member's next working day of the circumstances listed in s. HFS 57.18 (3).

(g) A description of the activities that a volunteer may perform for the group home, orientation of the volunteer, supervision and assurance that the volunteer is following group home policies and procedures, and the information to be provided on the laws of confidentiality and reporting of abuse and neglect.

(h) Handling of emergencies.

(2) PERSONNEL RECORDS. The licensee shall establish and maintain on the premises a personnel record for each staff member. Each personnel record shall contain all of the following for the staff member for which the record was created:

(a) A completed application for employment that shall include the staff member's name, address, date of birth, training, education, work experience, and date of hire.

(b) Current address.

(c) Addresses and telephone numbers of references and reference checks results.

(d) A completed and current HFS 64 background information disclosure form.

(e) The results of the caregiver background check conducted under s. HFS 57.15 (2) (a) and (3), and the results of any subsequent investigation related to information obtained from each background check.

- (f) A job description that is signed and dated by the staff member.
- (g) A completed physical examination or HealthCheck form, including tuberculosis test results.
- (h) The staff member's driver's record, if the staff member is assigned to transport children.
- (i) A training record that shall include documentation of the staff member's receipt of the orientation, training, and continuing education required under s. HFS 57.16. Documentation shall include all of the following:
  1. Date and time of orientation and each training session.
  2. Name of each person that conducted each orientation and training.
  3. Total hours of training or continuing education received.
  4. Whether the staff member completed the requirements of the training or continuing education session.
- (j) Documentation of all first aid and CPR certifications.
- (k) Any disciplinary actions issued to the employee.
- (2m) Relief help are exempt from providing a physical examination or HealthCheck form to the licensee.

(3) VOLUNTEER PERSONNEL RECORD. The licensee shall establish and maintain on the premises a volunteer personnel record for each volunteer used by the licensee. Each record shall contain all of the information required in sub. (2) except the physical examination or HealthCheck form and caregiver background check results.

**HFS 57.18 Staff member and volunteer responsibilities.** (1) Pursuant to s. 48.981 (2) and (3), Stats., a licensee, staff member, or volunteer who knows or has reasonable cause to suspect that a child has been abused as defined in s. 48.02 (1) Stats., or neglected as defined in s. 48.981 (1) (d), Stats., shall immediately inform by telephone or in person, a county department of human or social services or a local law enforcement agency.

(2) Staff members and volunteers shall keep information and records on residents confidential pursuant to the requirements in s. HFS 57.39.

(3) Each staff member shall notify the licensee as soon as possible, but no later than the staff member's next working day of all of the following:

- (a) A conviction of any crime.
- (b) A current or past investigation by any governmental agency for any 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) A governmental finding substantiated against them of abuse or neglect of a client or of misappropriation of a client's property.

(d) A denial, restriction, or other limitation of a license or credential from the department of regulation and licensing.

(4) The staff member shall demonstrate competency in the group home's program statement, policies and procedures, roles and responsibilities, and resident rights.

### SUBCHAPTER III - ADMISSION AND DISCHARGE

**HFS 57.19 Admissions.** (1) A child may not be admitted to a group home except under a written voluntary agreement or court order.

(2) Except as provided in sub. (2m), admission of a child under a voluntary agreement may not exceed 15 days from the date the child was removed from the home and may not be extended.

(2m) An admission of a custodial parent or expectant mother may be under a voluntary placement agreement for no longer than 180 days from the date on which the child was removed from the home under the agreement. A placement agreement under this subsection may be extended if an independent reviewing agency, such as an agency licensed under s. 48.61 (3), Stats., or a county department, determines that the extension would be in the best interests of the resident and if the resident and the resident's parent or guardian consent to the extension.

(3) If a placing agency places a child in a group home, the agency shall enter a written agreement with the licensee. The agreement shall include all of the following pursuant to s. 48.64 (1m), Stats.:

(a) That the agency shall have access at all times to the child and the group home.

(b) That the child will be released to the placing agency whenever the agency or the department finds that the best interest of the child requires it.

(4) Admission decisions shall be in accordance with the group home program statement, the compatibility of the child with the group home and the policies and procedures of the group home, and this chapter.

(5) (a) Except as provided in par. (b), there shall be no more than 4 years difference in the ages of the children admitted to the group home as residents.

(b) The age difference limitation stated in par. (a) does not apply to children admitted to a group home licensed for respite care.

(6) Admission of an 18 year old may only occur if the individual is under a Wisconsin original, extended, or serious juvenile offender delinquency disposition. Such placements may continue until the resident reaches age 19 only as part of a correctional aftercare placement. Up to two 18 year old residents may reside in the group home at any one time.

(7) Each child admitted to a group home as a resident shall have had a health examination performed by an individual licensed to perform the examination no more than one year before being admitted to the group home or shall have the examination within 30 days after the date of admission if the consent required under s. HFS 57.25 (1) has been obtained. Documentation of the examination shall be maintained in the resident's record as required in s. HFS 57.38 (1) (i) 3.

(8) Before or upon admission to a group home each resident shall be provided with all of the following:

(a) Information on exits and evacuation routes.

(b) Oral notification and a written copy of the resident rights specified in s. HFS 57.24. If the resident is 17 years of age or younger, a copy shall also be made available to the resident's parent or guardian, and legal custodian, if available.

(c) A copy of the house rules developed under s. HFS 57.05 (2) (k). A copy of the house rules shall also be provided to the resident's parent, guardian, or legal custodian, as appropriate.

(9) Upon receipt of a notice of revocation of the group home license and during any revocation proceedings that may result, the licensee may not admit a child as a resident except as provided in s. HFS 57.56 (2).

**HFS 57.20 Discharge.** (1) Except as provided in sub. (3), the licensee shall complete and send to the appropriate placing agency a discharge summary for each resident discharged from the group home within 30 days of the resident's discharge. A copy of the summary shall be placed in the resident's record. The discharge summary shall include all of the following:

(a) Dates of the resident's stay.

(b) Reason for discharge.

(c) Summary of incidents involving the resident as described in HFS 57.13(1).

(d) Description of type of admission.

(e) Any other relevant information.

(2) The discharge summary developed for a respite care or other placement under a voluntary agreement shall be provided to the parent, guardian, legal custodian, or placing agency, as appropriate upon discharge. A copy of the summary shall be placed in the resident's record.

(3) Thirty days before a discharge of a resident whose placement is court ordered for reasons other than revocation or denial of a license, the post-discharge plan developed under s. HFS 57.23 (3) shall be provided to the resident, the resident's parent, guardian or legal custodian, if available.

(4) The licensee shall allow the placing agency at least 15 days to make plans for a resident whom the licensee requests that the placing agency remove from the group home unless both parties agree to earlier removal.

(5) All of the resident's personal belongings, including medical equipment shall accompany the resident upon discharge. A complete accounting of these items shall be placed and maintained in the resident's record required under s. HFS 57.38. Medication shall be handled as required under s. HFS 57.25 (6) (e) to (g).

(6) By the effective date of a license revocation the licensee shall have arranged for alternative placement for each resident. Arrangements for alternative placement shall be made in cooperation with each resident's parent or guardian, and legal custodian or placing agency, if not the same. The licensee shall share the placement information with the licensing representative at least one week before the effective date of the revocation.

#### SUBCHAPTER IV - RESIDENT CARE

**HFS 57.205 Principles for nurturing care.** The group home shall do all of the following:

(1) Provide a safe, stable, and humane environment.

(2) Encourage a resident's autonomy, respect a resident's need for privacy and consider a resident's preferences and choices while providing care, supervision, and training.

(3) Provide care that is respectful toward the beliefs, interpersonal styles, attitudes and behaviors of residents and families of various cultures.

**HFS 57.21 Staff to resident ratios and supervision.** (1) In a shift-staffed group home, during hours other than sleep, there shall be at least one staff member on duty whenever 5 or fewer residents are present. At least 2 staff shall be on duty if there are 6 or more residents present. Whenever residents are asleep, at least one resident care staff or relief help shall be awake unless an alternate means of assuring the safety of residents is provided by the group home and approved by the department. The group home must assure that residents are responded to if needed. The number of resident care staff shall be increased as necessary to provide the care and services identified in the group home's program statement and plan of activities.

(2) No resident may be in the group home without supervision by a staff member.

(3) A resident shall receive supervision appropriate to the resident's age, maturity, behavior and developmental level and sufficient to ensure the safety of all residents in the group home.

**HFS 57.22 Resident activities.** (1) **ACTIVITY PLANNING AND SCHEDULING.** The licensee shall establish and implement a written plan of general activities for residents that shall include all of the following:

(a) Leisure-time activities.

(b) Opportunities to engage in social and community activities.