ORDER OF
DEPARTMENT OF HEALTH SERVICES
TO ADOPT RULES

The Wisconsin Department of Health Services proposes to repeal and recreate ch. HFS 83 and Appendix A, relating to community-based residential facilities, and affecting small businesses.

SUMMARY OF PROPOSED RULE

Statute interpreted: Sections 50.03, 50.035, and 50.037, Stats.

Statutory authority: Sections 50.02 (1) and (2) (a), 50.025, and 227.11 (2) (a). Stats.

Explanation of agency authority:

Section 50.02 (1), Stats., requires the Department to promulgate rules for the uniform statewide licensing, inspection and regulation of community-based residential facilities (CBRFs). Section 50.02 (2) (a), Stats., gives the Department the authority to establish and enforce regulations and standards for the care, treatment or services, and health, safety, rights, welfare and comfort of residents in CBRFs. It also authorizes the Department to promulgate and enforce rules consistent with s. 50.02, Stats. Section 50.025, Stats., requires the Department to establish a fee schedule, by rule, for conducting plan reviews of capital construction and remodeling of CBRFs.

Section 227.11 (2) (a), Stats., allows agencies to promulgate rules interpreting the provision of any statute enforced or administered by the agency if the agency considers it necessary to effectuate the purpose of the statute.

Related statute or rule:

See the “Statutes interpreted” section.

Plain language analysis:

This proposed order repeals and re-creates ch. HFS 83 relating to CBRFs. CBRFs are facilities for 5 or more adults who require supervision and care and services above room and board. Nursing care is not the primary function of the facility. In Wisconsin, CBRFs are one of 4 categories of regulated entities referred to as assisted living facilities.

The purpose of the proposed rule is to accomplish the following:

- Focus on resident outcomes and quality of life and quality of care.
- Support reasonable and flexible regulatory processes.
- Improve readability and organization, and eliminate excess and prescriptive verbiage.
- Incorporate information from Division of Quality Assurance memos.
- Update ch. HFS 83 with related regulations, including requirements regarding Family Care, Wisconsin Commercial Building Code, chs. HFS 12 and 13, and ch. 50, Stats.
- Address areas of care to recognize increasing acuity care levels of consumers residing in CBRFs.

- Revise staff training standards, establishing a more cost effective system for providers and the Department.
- Clarify medication administration requirements.
- Incorporate requirements for facilities with more than 20 residents into the main body of the rule.
- Promote use of nationally recognized standards of practice.

The proposed order recognizes national and state trends in the assisted living industry, and incorporates recommendations from the 2003 Assisted Living Workgroup Report to the U.S. Senate Special Committee on Aging. The Department's goal is to integrate these concepts into ch. HFS 83 for the benefit of the consumers of Wisconsin. For example:

- Staff training in personal care will enhance the ability of staff to meet the increasing care needs of consumers in assisted living facilities.
- Additional requirements for assessment and care planning in mental health, wandering, falls, pain management, and choking will augment existing care planning requirements.
- Clarification of nurse delegation responsibilities to a non-licensed caregiver will address acuity and will allow facilities to provide appropriate care in a cost effective manner in times of limited nurse availability.
- A new requirement that a temporary service plan be developed and implemented on admission will help ensure that facilities will be prepared to meet the immediate needs of the consumers.
- Increased administrator qualifications and annual staff training standards to reflect national trends.
- Increased requirements for disclosure to consumers and families regarding services, including nurse availability to help consumers choose a CBRF that best meets their needs.
- Development of a Department approved training curriculum in medication administration enhances the consumer choice to live in a community residential setting while decreasing risks associated with the administration of medication.
- Additional Department approved training curriculum incorporates current standards in fire safety, first aid/choking, and standard precautions to protect the health, safety and welfare of consumers in CBRFs.
- The new requirement for a sprinkler system in small facilities serving persons who are not physically or mentally capable of responding to an electronic fire alarm and exiting the facility without help, or physical or verbal prompting, will enhance the safety of vulnerable adults living in CBRFs.

Chapter HFS 83 was last substantially revised July 1, 1996.

Summary of, and comparison with, existing or proposed federal regulations:

There are no federal regulations proposed or in effect for CBRFs.

Comparison with rules in adjacent states:

Each of the four adjacent states has regulations governing similar types of assisted living facilities. The following table shows information in relevant categories that are specific to the proposed rule:

Wisconsin:

Scope of Care	-Supervision, care and services above room and board. -Resident needs cannot exceed intermediate level nursing care. -Cannot provide more than 3 hours of nursing care per week. -Services provided must be adequate to meet the needs of residents.
Administrator Qualifications	-At least 21 years of age. -Associate degree or higher in a business or health care related field, or at least 60 credit hours of post secondary course work in business, health care, nursing, social services, management or other field related to human services.
Staff Training	-Initial orientation including job responsibilities; prevention and reporting of abuse, neglect and misappropriation; information regarding assessed needs and individual services for each resident for which the employee is responsible; emergency plan and evacuation procedures; general facility policies, and recordkeeping requirements. -All resident care staff must complete training in standard precautions, fire safety and first aid/choking, resident rights, resident group specific training and challenging behaviors. -Staff with responsibilities in the areas of medication administration, resident assessment, service plan development, provision of care and dietary must complete training in those areas.
Physical Plant	-NFPA (National Fire Protection Association). -Wisconsin Commercial Building Code. -Wisconsin Uniform Dwelling Code. -Americans With Disabilities Act.(ADA) -All facilities serving residents who are unable to take independent action in an emergency situation must be equipped with an automatic sprinkler system.

Illinois:

Scope of Care	-"General watchfulness and appropriate action to meet the needs of residents, exclusive of nursing care". -Home health agencies unrelated to the assisted living establishment may provide services under contract with residents.
Administrator Qualifications	-High school graduate or equivalent. -At least 21 years of age.
Staff Training	-Training and/or experience in the job assigned. -On-going in-service training to ensure necessary skills.
Physical Plant	-NFPA. -Life Safety Code, 2000 edition, Chapter 32 (new construction).

Iowa:	
Scope of Care	-Health-related care may be provided on a part-time or intermittent basis only.
Administrator Qualifications	-21 years of age and adequately trained to carry out duties.
Staff Training	-Personnel must be able to implement the program's accident, fire safety, emergency procedures, and assigned tasks.
Physical Plant	-Not specified except for room size.

Michigan:

Scope of Care	-Home for Aged (HFA) – Room, board and supervised personal care. -Adult Foster Care (AFC) – 24-hour personal care, protection and supervision.
Administrator Qualifications	-HFA – Competent and at least 21 years of age. -AFC – At least 1 year of experience, competent in the areas of nutrition, first aid, CPR, the foster care act, fire prevention, financial and administrative management, resident rights and prevention and containment of communicable disease.
Staff Training	-HFA – Staff in supervisory positions must be at least 21 years of age. -AFC – All staff must go through training to learn how to work with the population for which they are caring; licensee or administrator must provide in-service training in nutrition, reporting requirements, first aid, CPR, personal care, supervision, protection, resident rights, safety and fire prevention and prevention and containment of communicable disease; staff must be trained in the administration of medication before performing that duty.
Physical Plant	-Not specified except for room size.

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Minnesota:

Scope of Care	-"Housing with Services" establishments provide sleeping accommodations, food, social services, transportation and one or more health-related services or 2 or more supportive services (ADLs). -Facilities must obtain a home care license or contract with a licensed home care agency in order to provide health-related services.
Administrator Qualifications	-None specified.
Staff Training	-None specified except for training in Alzheimer's care.
Physical Plant	-Facilities must comply with local building codes.

Summary of factual data and analytical methodologies:

To develop the proposed rule, the Department formed an advisory committee which included representatives from the Wisconsin Board on Aging and Long Term Care, the Wisconsin Assisted Living Association, CBRF providers, the Wisconsin Association of Homes and Services for the Aging, the Wisconsin Health Care Association and Department staff. The advisory committee met over a period of 1½ years to review draft language, exchange information, and promote consensus on the proposed rule. Department staff developed a process whereby requests for revisions to the proposed language could be submitted for consideration. The Department responded to over 500 individual revision requests making changes to proposed rule when appropriate.

As the advisory committee developed draft language, research was conducted of all 50 states in the areas of staff training, administrator requirements, dementia care training, continuing education, and medication administration. Additionally, the committee researched various standards of practice and requirements related to infection control, pain management, funding sources, medications, food service, physical environment, nursing care, and fit and qualified criteria for licensees.

The committee's work was reviewed by representatives from the Survival Coalition of Wisconsin, Residential Services Association, Wisconsin Coalition of Correction Clients and Residential Services Association. Changes were made to the proposed rule to address issues identified by these groups.

To determine the impact on small businesses, specifically CBRFs, the Department relied on the following sources.

- The 2002 Economic Census – Wisconsin Geographic Series, compiled by the U.S. Census Bureau every 5 years for each year ending in "2" and "7" and contains the latest economic data available on businesses located in Wisconsin.

- Criteria adopted by the Department and approved by the Wisconsin Small Business Regulatory Review Board to determine whether the Department's proposed rules have a significant economic impact on a substantial number of small businesses. Pursuant to the Department's criteria, a proposed rule will have a significant economic impact on a substantial number of small businesses if at least 10% of the businesses affected by the proposed rules are small businesses and if operating expenditures, including annualized capital expenditures, increase by more than the prior year's consumer price index or reduces revenues by more than the prior year's consumer price index. For the purposes of this rulemaking, 2005 is the index year. The consumer price index is compiled by the U.S. Department of Labor, Bureau of Labor Statistics and for 2005 was 3.4%.

- DHFS databases including the Adult Programs Information System (APIS) that contains demographic, licensing, program, and compliance history of CBRFs, Adult Family Homes (AFHs), Residential Care Apartment Complexes (RCACs), and Adult Day Care Programs (ADCs).

- *The State of Seniors Housing 2005* published by the American Seniors Housing Association. This report contains pertinent financial and performance measures including expense and revenue categories, resident turnover, occupancy, and other key operational data categories. The report is a collaborative research project between the American Seniors Housing Association, National Investment Center for the Seniors Housing & Care Industry, Price Waterhouse Coopers, and the American Association of Homes and Services for the Aging.

- Data from the Wisconsin Department of Workforce Development (DWD), the state agency responsible for building and strengthening Wisconsin's workforce. DWD offers a variety of employment programs and services to employers, job seekers, and workers. DWD employment, economic, and statistical data is readily available on the web at www.dwd.state.wi.us

- Section 227.114 (1) ,Stats. defines "small business" as a business entity, including its affiliates, which is independently owned and operated and not dominant in its field, and which employees 25 or fewer full-time employees or which has gross annual sales of less than $5,000,000.

Analysis and supporting documents used to determine effect on small business:

The proposed rule will affect CBRFs that are licensed to care for 5 or more unrelated adults. Based on data from the APIS database, as of January 2006, there were 1373 licensed CBRFs in Wisconsin. The majority of these entities are "small businesses" as defined under s. 227.114 (1), Stats.

The North American Industry Classification System (NAICS) includes CBRFs in the Health Care and Social Assistance sector (sector 62) and further defined in sub-sector 623 Nursing and Residential

Care Facilities. In sub-sector 623, CBRFs represent approximately 60% of the NAICS establishments, 30% of the $2.7 billion in annual receipts, and 33% of the 72,000 employees. Industries in sub-sector 623 provide residential care combined with either nursing, supervisory, or other types of care as required by residents. The facilities are a significant part of the production process; and care provided is a mix of health and social services with the health services being largely some level of nursing service.

Data obtained from the APIS database on January 18, 2006 records 1,373 CBRFs as licensed to operate in Wisconsin; CBRFs have averaged 1,356 facilities since 2001. Approximately 12 facilities open, close, or, change ownership each month. CBRF entities include non-profits including churches, corporations for profits, partnerships, limited liability corporations, sole proprietorships, and governmental entities.

CBRFs are first categorized based on residents' ability to respond to an emergency. Class 'A' CBRFs may serve residents who are ambulatory, semi-ambulatory, or non-ambulatory if the residents are mentally and physically capable of responding to an electronic fire alarm and exiting the facility without any help or verbal or physical prompting. Currently 1/3 of all CBRFs hold Class 'A' licenses.

Class 'C' CBRFs may serve residents who are ambulatory, semi-ambulatory, or non-ambulatory but one or more of whom are not mentally or physically capable of responding to an electronic fire alarm and exiting the facility without help or verbal or physical prompting. Class 'C' CBRFs make up 85% of the licensed bed capacity, which is up approximately 15% in 1983.

CBRFs are also categorized by size. Small CBRFs have bed capacity for 5 to 8 residents. Medium CBRFs have bed capacity for 9 to 20 residents. Large CBRFs have bed capacity for 21 or more residents.

Types of CBRF Entities	Class 'A'			Total Class 'A'	Class 'C'			Total Class 'C'	Total CBRFs
	Small	Medium	Large		Small	Medium	Large		
Non-Profit	76	65	12	153	66	38	34	138	291
Corporation for Profit	162	44	6	212	162	165	73	400	612
Partnership/LLC	34	12	1	47	105	163	66	334	381
Sole Proprietorship	23	12	0	35	17	12	1	30	65
Governmental	7	3	1	11	9	2	2	13	24
Total	302	136	20	458	359	380	176	915	1373

The average CBRF has 16 beds. There are approximately 1,373 licensed CBRFs for a total of 22,035 beds.

Most of the revenue CBRFs receive is for resident care. The low and high rate charged per resident is gathered on the license application and subsequent renewals and is maintained in the APIS database. Residents are charged different rates based on the levels of care provided. The January 18, 2006 data for all CBRFs was averaged by class and size to estimate revenue for a 'typical' CBRF. Average revenue decreases as facility sizes increase.

Class 'A' Class 'C'

Average Annual Revenue per Licensed Bed, APIS Data	Small	Medium	Large	All Sizes	Small	Medium	Large	All Sizes
Average Low Rate Revenue	37,788	32,313	32,139	35,908	42,361	30,110	29,436	34,787
Average Median Rate Revenue	40,070	36,533	35,483	38,763	46,104	30,070	29,425	40,206
Average High Rate Revenue	42,185	40,753	38,827	41,612	49,846	42,885	42,935	45,626

Expenditure data for Wisconsin CBRFs is not readily available. To determine average operating expenses per licensed bed, data from *The State of Seniors Housing 2005* report is compiled below. This study defines assisted living beds as "properties designed for frail seniors who need assistance with activities of daily living, but do not require skilled nursing care." Beds identified for persons with Alzheimer's are defined as "designated for those residents with significant cognitive impairment as a result of having Alzheimer's or a related dementia." These categories most closely match the Wisconsin definition of a CBRF. The national sample contained 117 assisted living residences, including Alzheimer's units. The sample represents 10,078 assisted living beds, resulting in an average of 86 beds per facility. The sample covers all 50 states and consists of 87% for-profit businesses. The data presented below is an average annual per bed cost from all 117 entities included in the sample. The data is presented in income statement format for ease of presentation and does not reflect any actual operating results for any given entity. The averaging process generally inflates the individual line item expense. The larger 86 bed average facility will include higher administrative costs than the typical 16 bed CBRF in Wisconsin.

Assisted living facilities are more profitable than the demonstration income statement below implies. *The State of Seniors Housing 2005* report includes operating margins ranging from 19.3% - 33.8%; these ratios reflect results of Earnings Before Interest, Taxes, Depreciation, Amortization, and Rent (EBITDAR). The revenues in the table below, $35,712 and $40,348 are within the revenue ranges in the APIS dataset, providing validation to Wisconsin CBRFs. All expenses are also displayed as a percentage of revenue.

National Median Annual Operating Revenue and **Expenses per occupied Assisted Living bed**	Senior Assisted Living Facilities		Senior Assisted Living Facilities including Alzheimer's residents	
Revenue	35,712	100.00%	40,348	100.00%
Direct Labor				
Administrative	1,601	4.48%	1,576	3.91%
Dietary	1,593	4.46%	1,550	3.84%
Housekeeping Maintenance	501	1.40%	597	1.48%
Maintenance	397	1.11%	371	0.92%
Assisted living	6,285	17.60%	6,039	14.97%
Nursing	1,207	3.38%	2,548	6.32%
Marketing	577	1.62%	768	1.90%

Other Labor	676	1.89%	420	1.04%
Payroll Taxes	1,158	3.24%	1,281	3.17%
Employee Benefits	931	2.61%	1,684	4.17%
Total Labor	14,926	41.80%	16,834	41.72%
Non-Labor Expenses				
Property Taxes	1,067	2.99%	966	2.39%
Liability Insurance	901	2.52%	753	1.87%
Raw Food	1,541	4.32%	1,744	4.32%
Utilities	1,308	3.66%	1,319	3.27%
Marketing/Advertising	763	2.14%	500	1.24%
Repairs & Maintenance	620	1.74%	795	1.97%
Housekeeping	174	0.49%	227	0.56%
Management Fees	1,661	4.65%	2,262	5.61%
Debt Service/Lease Payments	7,446	20.85%	9,364	23.21%
Misc. Operating Expenses	2,022	5.66%	2,267	5.62%
Corporate/Administrative Expenses	2,914	8.16%	327	0.81%
Total Non-Labor Expenses	20,417	57.17%	20,524	50.87%
Total Expenses	35,343	98.97%	37,358	92.59%
Net Operating Income	369	1.03%	2,990	7.41%

Labor costs are 42% of revenue for both sample income statements, with higher receipts covering the higher cost of care at the Alzheimer's facilities. Non-labor or fixed cost expenses are slightly higher for facilities offering lower care levels, due mostly to lower receipts. The data in the table above was used to determine whether any increased costs associated with the proposed rules have a significant impact on small business in Wisconsin.

Effect on small business:

Pursuant to the Department's criteria, a proposed rule will have a significant economic impact on a substantial number of small businesses if at least 10% of the businesses affected by the proposed rules are small businesses and if operating expenditures, including annualized capital expenditures, increase by more than the prior year's consumer price index or reduces revenues by more than the prior year's consumer price index. For the purposes of this rulemaking, 2005 is the index year. The CPI rate for 2005 is 3.4%.

It is anticipated that all CBRFs will experience modest increased costs from one or more of the additional requirements defined above. A number of CBRFs already meet or exceed the requirements set forth in the proposed rule and will not be affected by the rule changes. It is estimated that many of the cost increases would be less than 1% of revenue on a single bed; distributing the cost across all licensed beds further reduces the impact of increased costs to the CBRF.

Approximately 117 of the small Class C CBRFs may be required to install a sprinkler system. The cost to install a sprinkler system at these facilities will likely exceed 3.4% of operating expenses. Should these facilities need to make changes to meet other regulated areas such emergency lighting, increased cost for training, solid doors, higher costs for an administrator, etc, this will most likely exceed the established Department cost criteria of 3.4%. Only 8.5% of all CBRFs appear to be affected by the

need for sprinkler systems, the single most costly item in the proposed rule. The affected facilities have other options available to them to address the cost of sprinklers; including downsizing to a 4 bed adult family home, or requesting a waiver from the Department.

The proposed rule may increase costs for CBRFs modestly in several areas, however, changes in administrative reporting requirements may reduce this administrative burden. Based on available data, the increased costs for most CBRFs will be less than the 2005 CPI of 3.4%. The effect on small business CBRFs cannot be clearly defined as there are too many variables. Small CBRFs will experience a larger fiscal impact then larger facilities as the per bed impact for any single item is greater.

Based on the January 2006 data, it is estimated that 892 CBRFs (65% of all CBRFs) are small business with annual revenue less then $5 million or 25 or fewer employees. To determine small business status, the Department used CBRF published low monthly rates and a conservative FTE calculation. The logic used may have overstated the estimate of small business CBRFs.

Revenue for each CBRF was estimated using data from the APIS database. Each CBRF monthly low rate was multiplied by licensed beds, then by 12 months, and then 85%; which is the average industry occupancy rate. Using this formula, five CBRFs exceed annual receipts of $5 million. Using the CBRF monthly high rate resulted in eight entities exceeding $5 million in annual receipts. Several corporations operate multiple CBRFs and revenue estimates for these corporations were tallied together.

NAICS employee data in sub-sector 623 Nursing and Residential Care Facilities (71,877 employees) was distributed by licensed beds for all DQA licensed entities in this sub-sector, including CBRFs. This calculation results in an average of 0.878 staff per licensed bed. Staff levels were projected using the average staff calculation and multiplying by licensed capacity. The results showed 130 CBRFs with 26 or more employees. Corporate owned CBRFs were tallied together.

CAPITAL EXPENDITURES

Sprinkler system for small class 'C' facilities.
Small class 'C' CBRFs serve 5 to 8 persons with physical or cognitive impairments which prevent them from responding to an alarm and escaping a fire without assistance. Many of these facilities are older, private homes with aging mechanical and electrical systems that have been converted to CBRFs, increasing the need for fire protection. An analysis of federal data and public news accounts shows at least 2 fires a day in the nation's assisted living facilities. These fires result in generally one fatal fire a month, twice the rate of nursing homes. Wisconsin CBRFs are required to report all fires that occur on the premises. In 2005, 10 fires were reported in CBRFs. There were no deaths, and only one resident was injured.

In August, 2005, the South Milwaukee Common Council passed the Fire Prevention, Protection and Control Code. This Code was drafted by the South Milwaukee Fire Department and 6 surrounding communities because of the potential increase in loss of life from fire that could occur in residences converted to house a group of elderly or disabled persons. The Code requires the retrofit of fire sprinkler protection in all adult family homes and CBRFs regardless of class or occupancy load. Facilities must begin installation within one year from the date of notification. Other local governments may follow South Milwaukee's lead in this requirement.

Alabama is one of the few states that require all assisted living facilities to be sprinklered, and has not had a fatal fire in an assisted living facility in a decade. The National Fire Protection Association (NFPA) has documented and analyzed 28 fatal board and care facility fires during the past 20 years. This report, published in the NFPA Journal January/February 1993, stated that an approved automatic sprinkler system would have controlled or extinguished the fire and may have altered the outcome at a board and care home in Detroit in which 10 residents died. The Journal also reported that the average property loss per fire in a sprinklered building is $2,130 versus $5,845 in a non-sprinklered building.

See related articles regarding fire safety in the nation's assisted living facilities.
http://www.usatoday.com/news/nation/2005-12-15-fire-safety_x.htm
http://www.iafc.org/associations/4685/files/healthcare.pdf
http://archive.ggao.gov/d15t6/138117.pdf
http://www.gao.gov/new.items/d04660.pdf

Installing a sprinkler system may be a financial challenge for some small class 'C' CBRFs but there are alternatives available. Facilities may choose to change the classification of their licensure to serve persons who are physically and mentally capable of taking life-sustaining action. A CBRF could reduce capacity and become a four-bed adult family home, not subject to ch. HFS 83. However, both options would most likely result in some decreased revenue, either from fewer residents or providing services to residents with fewer health needs at a lower rate. A CBRF can request a waiver from the Department. The Department may grant a waiver of the requirement if the facility submits alternate provisions to meet the rule that would not jeopardize the health, safety, and welfare of its residents. CBRFs have 5 years to comply with the sprinkler requirement allowing substantial time to budget for the associated costs.

The cost to install a sprinkler system in a small class 'C' facility is estimated between $13,000 and $23,000 or between $1,625 ($13,000 for 8 beds) and $4,600 ($23,000 for 5 beds) per licensed bed. Based on a Department study, 117 small Class 'C' facilities, or 8.5% of all CBRFs will need to install sprinkler systems. Small Class 'C' CBRFs have 5 years to comply. As a capital purchase spread over 5 years, $920 annually ($4,600/5 years) per bed is 2.6% of the average Wisconsin CBRF gross annual revenue of $34,787 per licensed bed. As a single item, this cost is estimated to be less than the 2005 CPI of 3.4 %.

Hand drying.
The proposed rule requires that common use bathrooms be provided with individual towel dispensers, enclosed cloth towel dispensing units or electric hand dryers to help prevent the spread of infection. The risk of developing a communicable disease is 2 to 4 times greater in a communal living arrangement. This requirement does not apply to private resident bathrooms. The number of common use bathrooms in a facility is generally limited. Facilities will have 3 months after the effective date of the proposed rule to comply with this requirement. CBRFs may request a variance from the Department.

The cost of a cloth towel dispensing unit is approximately $64. An individual paper towel dispenser costs between $40 and $60. Costs for laundry or paper supplies may cost $150 per year. This requirement doubles the annual per bed housekeeping cost of $174 and $227 from the table of revenues and expenses in the previous section and is ½ of 1% of revenue for one bed.

Fire inspection for small facilities.

Currently, ch. HFS 83 requires all medium and large CBRFs to arrange for an annual fire inspection of the CBRF. The proposed rule requires small facilities to meet this same requirement. The majority of municipalities conduct annual fire inspections for small facilities at no cost to the provider. Nineteen counties throughout the state, including Milwaukee, Dane, Sheboygan and Jefferson do not provide this service. Small facilities in these counties will need to arrange for an annual inspection, possibly at a cost to the provider. At this time the inspection is completed by the Department. However, the Department no longer has the resources to complete this task.

The cost for fire inspection of some CBRFs will range from $60 to $150 annually or $12 - $30 per bed in a five bed facility. See the following website http://dhfs.wisconsin.gov/forms/DDES/DDE0795.pdf for a copy of the Fire Inspection Report form.

Fees for plan review for new construction, additions, remodeling, and smoke and heat detector, and sprinkler system installation.
The purpose of the plan review is to determine compliance with the structural requirements contained in proposed rule, Department of Commerce building code requirements and related accessibility requirements, before the CBRF begins any new construction, additions, remodeling or before the CBRF installs smoke, or heat detector or sprinkler systems. This review focuses on fire safety including, minimum type of construction; number of exits; egress routes; placement of fire extinguishers; smoke and heat detectors; and sprinkler heads. The proposed rule does not require plans to be prepared by a certified architect. Certified engineers from the Department conduct the plan review to ensure a building meets applicable requirements prior to construction. This service is provided by the Department for a nominal fee. The existing fee is based on the estimated cost of the construction project and is listed in the table below:

Current Plan Review Fees for CBRFs	
Cost of Project	Plan Review Fee
$1 - $5,000	$100
$5,001 - $25,000	$300
$25,001 - $100,000	$500
$100,001 - $500,000	$750
$500,001 - $1,000,000	$1,500
$1,000,001 - $5,000,000	$2,500
$5,000,000 or more	$5,000

Most CBRF plan reviews are for projects under $500. Department time study data reveals that the cost for engineers to review these projects is much greater than the current $100 fee. The proposed rule would increase the plan review fee to $300 for projects with an estimated dollar amount of at least $2,000 but less that $25,000. The fee for projects less than $2,000 will remain at $100. All other fees will remain the same. Department databases indicate an average of 150 small CBRF plan reviews are conducted by the Department annually. Eleven percent of CBRFs may have to pay the increased fee. This increase is less than ¼ of 1% of the revenue for a single average bed. During calendar year 2005, approximately 150 CBRF plans were submitted for review including 75 plans for fire and sprinkler systems. Another 30 plans were for new facility construction or major remodeling projects. Providers have the ability to budget accordingly when planning for capital expenditures.

Stand-by power source.

The proposed rules require emergency back up lighting in limited areas, including stairways and exit passageways, to ensure safe evacuation of residents in case of a fire, power outages, or natural disaster. Many residents in CBRFs are elderly and have limited ambulation ability, vision deficits or hearing impairments, making it important that exit routes are clearly illuminated at all times. Staffing levels are lower on the night shifts so their efforts need to focus on resident evacuation rather than finding a source of light. The back-up lighting may be battery operated. The average cost of a battery operated unit is $30. Facilities may require two or more back-up lighting units depending on the layout of the facility.

Facilities will have three months after the effective date of the proposed rule to comply with this requirement. Any facility may request a variance from the Department to this requirement.

Increased cost for stand-by power sources may have a one-time cost of approximately $100, ¼ of 1 % of the revenue for a single CBRF bed. The number of affected CBRFs is unknown.

Solid core wood door.
Existing rules require facilities to have a door between the basement and first floor for smoke separation purposes. The proposed rule will require these doors to be solid core wood or the equivalent and designed to contain fire and limit the spread of smoke to allow additional time to evacuate vulnerable persons from a facility. Basements are high risk areas for the development of fire due to location of such items as furnaces, clothes dryers, electrical panels, and highly combustible materials. It is necessary to provide safety measures between the basement and first floor to minimize the effects of a fire. Persons living in assisted living facilities are dependent on state regulations to make sure facilities meet appropriate safety standards.

Facilities will have 3 months after the effective date of the proposed rule to comply with this requirement. Any facility may request a variance from the Department to this requirement.

The one time cost for solid core doors or equivalent fire protection is estimated at an expense of $400 per basement entrance. This improvement is estimated at 1% of revenue on one bed one time. The number of CBRFs affected is unknown.

ONGOING OPERATIONAL

Initial license and renewal fees.
Facilities are required to pay start up and renewal fees to the Division of Quality Assurance. Facilities are required to pay a base fee of $306 plus $39.60 per licensed bed capacity for a 2 year license. This fee is prorated for facilities receiving an initial, probationary license. This fee is established under ch. 50, Stats. and is not a requirement under the proposed rule.

Background checks.
CBRFs may not employ persons convicted of a crime related to the care of a vulnerable adult. Community-based residential facilities are required under s. 50.065, Stats., to conduct caregiver background checks of all employees upon hire and every 4 years thereafter. Wisconsin statutes set the search fee of $2 for non-profit organizations, $5 for governmental agencies and $13 for any other requestor. The frequency of caregiver background checks and the associated fees will depend upon both the size of the facility and staff turnover.

Increased administrator qualifications.

The proposed rule requires the administrator of the facility to have an associate degree or higher in a business or health care related field, or at least 60 credit hours of post-secondary course work in business, healthcare, nursing, social services, management or other fields related to human services. The Department has revised the proposed rule to permit individuals who have a Wisconsin nursing home administrator license and individuals who have completed a Department-approved administrator training course and who have at least two years experience working in a health care related field to be employed as a CBRF administrator. The existing rule requires administrators be at least 21 years of age, have completed high school or equivalent, have administrative experience or one post-high school course in business management, and have one year experience working with the client group of the facility. Current administrators will not be subject to the new administrator qualifications. Only administrators hired after the rule is enacted will be subject to the new educational requirements. This requirement was developed to improve leadership skills and accountability in the provision of services to residents whose acuity levels are rising.

Using data from the Department of Workforce Development and the Wisconsin Technical College System, the estimate is that the increased administrator qualifications could increase beginning salary by $5,000 annually. Fringe benefits would increase from $400 -$2,000 annually depending upon the benefits available from any specific CBRF entity. Market salary conditions, unemployment rates, and regional variances already affect administrator salary and will continue to do so with the increased qualifications. It is anticipated that sole proprietors who continue to administer their own business would be unaffected as only administrators hired after the rule was enacted will be subject to the new educational requirements. Any facility may request a variance from the Department to this requirement.

Higher administrator qualifications could potentially increase the beginning salary by $5,000 annually, with fringe benefit costs to $7,000 depending up the benefit package. Increased per bed costs are estimated at $438 ($7,000 for 16 beds). These per bed costs could be $1,400 at a 5 bed CBRF. Additional administrative cost may raise labor to 43% of revenue on the sample income statement, an increase of just over 1%.

Staff training including 15 hours annual continuing education.
Over the past several years, the acuity level of resident living in CBRFs has increased steadily. Many residents have complex medical or behavioral needs that require a trained, skilled response. CBRFs often care for residents who, in the past, would have lived in a nursing home and have care needs that require staff assistance with eating, toileting, dressing, supervision, and ambulation. Many residents also have significant medical conditions, such as diabetes, heart and respiratory illnesses, and wound care that requires medical intervention and frequent monitoring by properly trained staff. A strong training program is essential to ensure that staff has the required skills to meet the needs of the residents.

While the overwhelming majority of CBRFs provide good care, the Department has taken enforcement action and fined facilities that do not provide adequate care. For calendar year 2005, the Department assessed $439,406 in forfeitures against CBRFs. The 10 most frequently cited rules that resulted in fines included lack of staff training in the areas of fire safety, the spread of communicable diseases, and the prevention of choking for residents. Forfeitures were also assessed against CBRFs that did not provide prompt and adequate treatment to residents, proper resident supervision, and resident rights. Please refer to the charts enclosed to see the increase in fines assessed over the past 5 years and the rules most often cited.

Training requirements have been revised to give the CBRF greater flexibility to meet the standards, while also establishing a more cost effective system for providers. In addition, training requirements have been revised to address the increasing acuity care levels of consumers residing in CBRFs and enhance the ability of staff to meet the increasing care needs of consumers living in assisted living facilities. Currently staff are required to complete 45 hours of Department approved training. The average cost per person for all of the required training areas is $384, as follows:

Program	Hours Required	Avg. Cost Per Person*
Fire Safety	6	$28.24
Standard Precautions	3	$35.40
Medication	8	$63.50
Dietary	3	$35.00
First Aid	4	$37.00
Resident Rights	The minimum total hours for these 4 training programs are 32 hours.	$48.00
Challenging Behaviors		$42.00
Client Specific Training		$53.00
Needs Assessment		$42.00

* Cost is based on qualification of the staff receiving training. For example, all staff must be trained in Fire Safety. Only staff that provides medication administration assistance to residents would be required to be trained in medication.

Providers also have another option for meeting the current training requirements. Providers may pay a one-time fee to a number of private entities that have created a Department-approved training program. Providers then may use this program to train all staff in their facility on an ongoing basis. The cost of a video-based training program is approximately $3,675.

The updated training requirements in the proposed rule allow CBRFs more flexibility than the existing rule. The proposed rule removes the prescribed number of training hours in specified topic areas and allows providers to “provide, obtain or otherwise ensure adequate staff training” in the areas of Resident Rights, Resident Group Specific Training, Responding to Challenging Behaviors, Assessment of Residents, Individual Service Plan Development, Provision of Personal Care, and Dietary. Providers now may use in-house staff knowledgeable in a topic area to train other staff without having to seek Department approval for the trainer and the curriculum. Providers who do not have in-house resources may use trainers from the private sector to train staff. This should also result in savings to providers because private sector trainers will have more flexibility in meeting the training requirements. Overall, the changes made will create a savings for providers by substituting provider-based program requirements for Department-approved trainers and curriculum in these topic areas.

The proposed rule requires Department approved training curriculum in the areas of Fire Safety, First Aid, Medications and Standard Precautions. All trainers will need to use the Department’s curriculum. Using the Department’s standard curriculum will create savings for providers. Providers will no longer need to expend resources to create their own training programs for separate, departmental approval. Trainers for these topic areas will need to be certified by a Department approved entity using standards established by the Department. Trainers seeking certification from this entity will pay a cost determined by the entity. Trainers must renew their certification every two years.

The proposed rule increases continuing education hours to be completed by staff from 12 to 15 hours per year. Staff training is currently estimated at $114 annually. If an hourly wage of $9.50 was

calculated for staff time spent in training, this would cost providers an additional $28.50 per staff, per year. Continuing education training requirements help ensure staff receive information in current standards and practices related to areas such as Standard Precautions, Resident Group Specific, Medication, Resident Rights Prevention and Reporting of Abuse, Neglect and Misappropriation, and Fire Safety and Emergency Procedures.

The proposed changes to ch. HFS 83 reduce the administrative tasks associated with training staff. Actual training time may increase, but savings in administering the program will redirect limited resources to where these will do the most good for residents. Increased flexibility in obtaining training will allow CBRFs to meet the specific needs of their residents and obtain savings from being allowed to use training resources currently not available to them. Purchasing training from sources outside of the CBRF will provide savings often available in an open market. Many CBRFs already exceed the minimum Department training requirements and will be unaffected by these changes. Specific costs for any single facility are not readily determined, but should not materially increase operating expenses.

Communicable disease screening
Under the existing rule, CBRFs are required to ensure that all employees are screened for the presence of clinically apparent communicable diseases, including tuberculosis, within 90 days before the start of employment. This standard is similar to employee health screening requirements for nursing homes, home health agencies, hospices, hospitals, facilities for the developmentally disabled and restaurants. *The Journal of American Medical Association* (April 19, 2000) identifies people who live in community living settings and people who work as health care workers as two groups of people at risk for acquiring tuberculosis. Pulmonary tuberculosis is a contagious disease that is usually spread through the coughing and sneezing of an infected person. Transmission of the infection usually occurs only after prolonged exposure. It is important for persons in high risk groups to be tested to ensure they are free from infectious disease to prevent exposure and spread of the disease to residents and to identify the need for treatment.

The average cost for a pre-employment screening and tuberculosis skin testing is $50. This figure was obtained from current providers and area clinics. It is estimated that the average CBRF (16 beds) will pay $250 annually for these health screenings. It is estimated that the average CBRF has 14 employees. And assuming a 35 % annual turnover rate, the estimate is that five new screenings will need to be conducted annually. Screenings will cost about 0.7 percent of the revenue for one bed; the expense is un-measurable when distributed across the sixteen beds.

ONGOING TRANSACTIONAL

Annual resident assessment, Individual service planning, Annual on-site medication review, Annual resident evacuation assessment.
As required under the existing rule, all facilities must assess each resident before admission to determine if the facility is able to meet the needs of the residents. Areas of assessment include: physical health, medications, presence of pain, nursing procedures required, mental and emotional health, behaviors that may be harmful, risks such as choking, falling or wandering. Additionally, facilities must develop an individual service plan for each resident based on the individual needs identified from the assessment. The plan also specifies the different types of interventions staff will use to meet the resident's needs, and identify the provision or arrangement for those services necessary. Depending on the acuity of the resident, the assessment and the development of the individual service plan generally takes about 4 to 8 hours of staff time to complete.

The assessment and individual service plan are required to be updated when a resident undergoes a significant change or at least annually to identify the needs and abilities in the areas listed above. This update of the assessment and individual service plan generally takes 2 to 3 hours. Existing CBRF staff, or county human services staff, should be able to complete the required assessments with no increased cost to the facility. CBRFs lacking the staff to complete the required assessments may need to use the services of a consultant. Costs for a consultant range from $20 – $100 per hour. At the time the annual assessment is completed, the facility must offer all residents the opportunity to complete a satisfaction evaluation which identifies the resident's level of satisfaction with the facility's services. See the following website http://dhfs.wisconsin.gov/forms/DDES/DDE2372.pdf for a copy of Resident Satisfaction Form.

At least annually, a physician, registered nurse, or pharmacist is required to conduct an on-site review of the facility's medication administration and storage system. The on-site review will generally assess medication storage including, locked areas, separation of internal and external medications, refrigerated medications, labeling, and security of narcotics. The medication administration portion of the on-site review will assess staff administration of medications to residents to ensure proper route, proper dosage, proper resident, proper time and proper administration method. The last component of the assessment includes a review of the facility's medication administration records. This review ensures proper documentation of medications administered, including proof of use audits for all narcotics, documentation of medication errors or resident refusals to take medications and documentation showing staff understanding of potential side effects and benefits of psychotropic medication use. This on-site visit generally takes between 2 to 3 hours depending on the size of the facility and acuity of residents served. A registered nurse on staff would be qualified to perform the on-site medication administration. CBRFs lacking staff to complete this review may need to use the services of a consultant; whose fees could range from $20 – $100 per hour; or $60 - $300 annually.

Part of the ongoing transactional costs for facilities includes an evaluation of each resident's ability to evacuate the facility in case of fire or disaster without any help or verbal or physical prompting from staff. The assessment is standardized by the Department and must be completed by a staff person knowledgeable of the resident's abilities. This evaluation must be completed annually and when there is a significant change in a resident's physical or mental condition. This assessment generally takes one hour for a newly admitted resident and subsequent evaluations are generally completed in 30 minutes. Existing CBRF staff, or county human services staff, should be able to complete the required evacuation evaluation with no increased cost to the facility. See the following website http://dhfs.wisconsin.gov/forms/DDES/DDE2373.pdf for a copy of the Resident Evacuation Assessment form.

Costs for annual assessments, service plans, on-site visits and evacuation evaluations may cost from $20 - $100 per hour if performed by consultants. These costs are ¼ of 1% of the revenue for single average bed. There is no increased cost for CBRFs that perform these required assessments with existing staff.

Mandatory reporting requirements

All CBRF mandatory reporting requirements are listed in s. HFS 83.12 of the proposed rule. Many of these reports are required by Wisconsin statute or other administrative code. Section 50.04 (2t), Stats. requires facilities to report all deaths related to the use of a physical restraint, psychotropic medication or suicide to the Department within 24 hours of the death. Chapter HFS 13 requires CBRFs to report all allegations of abuse or neglect of a resident, suspicious injury of unknown source or

misappropriation of a resident's property to the Department within 7 days of the occurrence. CBRFs are also required to notify the Department anytime a resident is missing or is seriously injured requiring hospitalization if there has been a fire on the premises, or when law enforcement personnel are called to the facility as a result of an incident that jeopardized the health safety or welfare of a resident. None of these reports are new requirements for CBRFs.

Start Up Compliance Costs:

A person requesting licensure of a CBRF must complete an initial license application as required by s. 50.03, Stats. In addition to identifying general and facility information, the proposed rule requires a prospective licensee to complete financial information. This financial information includes the completion of a balance sheet which identifies assets; both current and fixed, and liabilities and net worth. Many corporate entities will not experience additional costs developing a balance sheet to meet Department reporting requirements as standard reports in accounting systems; balance sheets are readily available to any CBRF using automated accounting systems. For those CBRF entities that do not follow generally accepted accounting principles (GAAP), the aid of an accounting service may be required. Based on industry experience it will take one to 5 hours for an accountant to develop a balance sheet from the available records provided by the CBRF entity. Accountants currently charge $100 - $200 an hour for such services. This potential cost to CBRFs is a one-time startup expense.

The proposed rule requires new CBRFs to submit financial information showing assets, liabilities and net worth at the time of initial licensure as one way to determine whether the entity is qualified and has adequate resources to care for dependent adults. In the past, facilities have ceased operations abruptly due to financial problems with little or no notice to residents and families. This has caused physical and mental distress and resulted in residents being forced into accepting a new placement without adequate time to visit a variety of potentially new facilities to determine which best meets their needs and satisfaction. The information on the balance sheet will enable the Department to evaluate the financial viability of an entity.

See the following website http://dhfs.wisconsin.gov/forms/DDES/DDE0287.pdf for a copy of the Application for Community-Based Residential Facility.

Agency contact person:
Pat Benesh, Quality Assurance Program Spec-Senior
DHS Division of Quality Assurance
1 West Wilson ST. Rm. 1150
MADISON, WI 53701
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Fax: 608-267-7119
Patricia. Benesh@Wisconsin.gov

Place where comments are to be submitted and deadline for submission:
Comments may be submitted to the agency contact person that is listed above until the deadline given in the upcoming notice of public hearing. The deadline for submitting comments and the notice of public hearing will be posted on the Wisconsin Administrative Rules Website at http://adminrules.wisconsin.gov after the hearing is scheduled.

TEXT OF PROPOSED RULE

SECTION 1. Chapter HFS 83 is repealed and recreated to read:

CHAPTER HFS 83

COMMUNITY-BASED RESIDENTIAL FACILITIES

Subchapter I - General Provisions

HFS 83.01 Authority and purpose
HFS 83.02 Definitions
HFS 83.03 Variance and waiver

Subchapter II - Licensing

HFS 83.04 Licensing categories
HFS 83.05 Application requirements
HFS 83.06 Program statement
HFS 83.07 Fit and qualified
HFS 83.08 Department action
HFS 83.09 Biennial report and fees
HFS 83.10 Change of ownership
HFS 83.11 Facility closing
HFS 83.12 Investigation, notification, and reporting requirements
HFS 83.13 General records, retention and posting

Subchapter III - Personnel

HFS 83.14 Licensee
HFS 83.15 Administrator
HFS 83.16 Employee
HFS 83.17 Hiring and employment
HFS 83.18 Employee records

Subchapter IV - Orientation and Training

HFS 83.19 Orientation
HFS 83.20 Department-approved training
HFS 83.21 All employee training
HFS 83.22 Task specific training
HFS 83.23 Employee supervision
HFS 83.24 Exemptions
HFS 83.25 Continuing education
HFS 83.26 Documentation

Subchapter V – Admission, Retention, and Discharge

HFS 83.27 Limitations on admissions and retentions
HFS 83.28 Admission procedures
HFS 83.29 Admission agreement
HFS 83.30 Family care information and referral

HFS 83.31 Discharge or transfer

Subchapter VI - Resident Rights and Protections

HFS 83.32 Rights of residents
HFS 83.33 Grievance procedure
HFS 83.34 Resident funds

Subchapter VII - Resident Care and Services

HFS 83.35 Assessment, individual service plan and evaluations
HFS 83.36 Staffing requirements
HFS 83.37 Medications
HFS 83.38 Program services
HFS 83.39 Infection control program
HFS 83.40 Oxygen storage
HFS 83.41 Food service
HFS 83.42 Resident records

Subchapter VIII - Physical Environment

HFS 83.43 Furnishings and equipment
HFS 83.44 Housekeeping services
HFS 83.45 Building maintenance and site
HFS 83.46 Building support systems

Subchapter IX - Safety

HFS 83.47 Fire safety requirements
HFS 83.48 Fire protection systems
HFS 83.49 Alternative requirements to a sprinkler system in a small class C CBRF
HFS 83.50 Minimum type of construction
HFS 83.51 Area of refuge

Subchapter X - Building Design

HFS 83.52 Common dining and living space
HFS 83.53 Storage areas
HFS 83.54 Resident bedrooms
HFS 83.55 Bath and toilet facilities
HFS 83.56 Day care
HFS 83.57 Multiple occupancies
HFS 83.58 Garages and utility buildings
HFS 83.59 Exits and passageways
HFS 83.60 Windows
HFS 83.61 Interior surfaces

Subchapter XI - Requirements for New Construction, Remodeling, Additions, or Newly-licensed existing Structures.

HFS 83.62 Codes
HFS 83.63 Plan review
HFS 83.64 Building standards

SUBCHAPTER I – GENERAL PROVISIONS

HFS 83.01 Authority and purpose. (1) This chapter is promulgated under the authority of s. 50.02(2), Stats., to develop and establish regulations and standards for the care, treatment or services, and health, safety, rights, welfare, and comfort of residents in CBRFs.

(2) The chapter is intended to ensure all CBRFs provide a living environment for residents that is as homelike as possible and is the least restrictive of each resident's freedom; and that care and services a resident needs are provided in a manner that protects the rights and dignity of the resident and that encourages the resident to move toward functional independence in daily living or to maintain independent functioning to the highest possible extent.

HFS 83.02 Definitions. In this chapter:

(1) "Abuse" has the meaning given in s. 46.90(1) , Stats.

(2) "Accessible" means barriers are not present that prevent a person from entering, leaving or functioning within a CBRF without physical help.

(3) "Activities of daily living" means bathing, eating, oral hygiene, dressing, toileting and incontinence care, mobility and transferring from one surface to another such as from a bed to a chair.

(4) "Administrator" means an employee, including the licensee, or an employee designated by the licensee, who is responsible for the management and day-to-day operation of the CBRF.

(5) "Adult" means an individual who is at least 18 years of age.

(6) "Ambulatory" means the ability to walk without difficulty or help.

(7) "Apartment" means a living space with separate living, toileting and sleeping areas.

(8) "Applicant" means the person seeking licensure of a CBRF.

(9) "Area of refuge" means a room or stairwell landing for residents who cannot negotiate stairs, used for safe, temporary refuge in a fire or other emergency to await instruction or assistance.

(10) "Assessment" means gathering and analyzing information about a prospective or existing resident's needs and abilities.

(11) "Basement" means that portion of a building that is partly or completely below grade.

(12) "Care, treatment or services" means the provision of personal care, supervision, supervision of medication administration, management, or assistance to a resident by the CBRF, an employee, or by a person, agency or corporation affiliated with or under contract to the operator that is above the level of room and board.

(13) "Caregiver" has the meaning given in s. 50.065(1)(ag), Stats.

(14) “Case manager” means a person who plans, coordinates and oversees the care of a resident.

(15) “Chemical restraint” means a psychotropic medication used for discipline or convenience, and not required to treat medical symptoms.

(16) “Client group” means individuals who need similar services because of a common disability, condition or status. Client groups include individuals:

(a) With functional impairments that commonly accompany advanced age.

(b) With irreversible dementia, such as Alzheimer’s disease.

(c) Who have a developmental disability as given in s. 51.01(5), Stats.

(d) Who are emotionally disturbed or who have a mental illness as given in s. 51.01(13) (a), Stats.

(e) Who are alcoholic as given in s. 51.01(1), Stats., or who are drug dependent as defined in s. 51.01(8), Stats.

(f) With physical disabilities.

(g) Who are pregnant and in need of counseling services.

(h) Under the legal custody of a government correctional agency or under the legal jurisdiction of a criminal court.

(i) Diagnosed as terminally ill.

(j) With traumatic brain injury.

(k) With acquired immunodeficiency syndrome (AIDS).

(17) “Common dining and living space” means areas of the CBRF that are available to all residents for living and dining.

(18) “Community-based residential facility” or “CBRF” has the meaning given in s. 50.01(1g), Stats.

(19) “Department” means the Wisconsin department of health services.

(20) “Dietary supplement” means a product taken by mouth that contains a dietary ingredient such as vitamins, minerals, herbs or other botanicals, amino acids, and substances such as enzymes, organ tissues, glandulars, and metabolites.

(21) “Dietitian” means a person certified under subch.V of 448, Stats.

(22) “Employee” means any person who works for a CBRF or for an entity that is affiliated with the CBRF or that is under contract to the CBRF, who is under direct control of the CBRF or corporation affiliated with the CBRF and who receives compensation subject to state and federal employee withholding taxes.

(23) “Habitable floor” means any floor level used by residents or other occupants of the CBRF, for sleeping, living, cooking or dining, including a basement.

(24) “Habitable room” means any room used for sleeping, living, cooking or dining, excluding enclosed places such as closets, pantries, hallways, laundries, storage spaces, utility rooms and administrative offices.

(25) “Horizontal evacuation” means egress travel from one building to an area in another building on approximately the same level, or egress travel through or around a wall or partition which affords safety from fire and smoke to an area on approximately the same level in the same building.

(26) “Intermediate level nursing care” means care that is required by a person who has a long-term illness or disability who has reached a relatively stable condition.

(27) “Involuntary administration of psychotropic medication” means any one of the following:

(a) Placing psychotropic medication in an individual’s food or drink with knowledge that the individual protests receipt of the psychotropic medication.

(b) Forcibly restraining an individual to enable administration of psychotropic medication.

(c) Requiring an individual to take psychotropic medication as a condition of receiving privileges or benefits.

(28) “Legal representative” means a person who is any of the following:

(a) The health care agent under an activated power of attorney for health care under ch. 155, Stats.

(b) A person appointed as a durable power of attorney under s. 243.07, Stats.

(c) A guardian as given in s. 54.01(10) to (12), Stats.

(29) “Medication administration” means the direct injection, ingestion or other application of a prescription or over-the-counter drug or device to a resident by a practitioner, the practitioner’s

authorized agent, CBRF employees or the resident, at the direction of the practitioner. Medication administration does not include reminders to take medication.

(30) “Misappropriation of property” has the meaning as given in s. HFS 13.03(12).

(31) “Neglect” has the meaning as given in s. 46.90(1)(f), Stats.

(32) “New construction” means construction for the first time of any building or addition to an existing building on or after the effective date of this chapter.

(33) “NFPA” means the National Fire Protection Association.

(34) “Non-ambulatory” means a person who is unable to walk, but who may be mobile with the help of a wheelchair or other mobility devices.

(35) “Nursing care” means nursing procedures, other than personal care, that a registered nurse or a licensed practical nurse performs directly on or to a resident.

(36) “Other occupant” means any person who lives and sleeps in the CBRF, but who is not a resident of the CBRF.

(37) “Personal care” means assistance with activities of daily living, but does not include nursing care.

(38) “Pharmacist” means an individual licensed under ch. 450, Stats.

(39) “Physical restraint” means any manual method, article, device, or garment interfering with the free movement of the resident or the normal functioning of a portion of the resident’s body or normal access to a portion of the resident’s body, and which the resident is unable to remove easily, or confinement of a resident in a locked room.

(40) “Practitioner” means a person licensed in Wisconsin to prescribe and administer drugs or licensed in another state and recognized by this state as a person authorized to prescribe and administer drugs.

(41) “Psychotropic medication” means a prescription drug, as given in s. 450.01(20), Stats., that is used to treat or manage a psychiatric symptom or challenging behavior.

(42) “Qualified resident care staff” means an employee who has successfully completed all of the applicable training and orientation under subch. IV.

(43) “Relative” means a spouse, parent, stepparent, child, stepchild, sibling, grandchild, grandparent, aunt, uncle, niece, or nephew.

(44) “Remodeling” means to make over or rebuild a portion of a building, structure or room, thereby modifying its structural strength, fire hazard character, exiting, heating and ventilating systems, electrical system, fire alarm, and fire protection systems, call system, internal circulation or use as previously approved by the department. Construction of interior walls shall be considered remodeling.

Remodeling does not include minor repairs necessary for the maintenance of a building such as replacing like components of existing systems, redecorating existing walls or replacing floor finishes.

(45) “Reside” means the intent to remain in the CBRF permanently or continuously for more than 28 consecutive days.

(46) “Resident” means a person unrelated to the licensee or administrator who resides in the CBRF and who receives care, treatment or services in addition to room and board.

(47) “Resident care staff” means the licensee and all employees who have one or more of the following responsibilities for residents: supervising a resident’s activities or whereabouts, managing or administering a resident’s medications, providing personal care or treatments for a resident, planning or conducting training or activity programming for a resident. Resident care staff does not include volunteers and employees who work exclusively in the food service, maintenance, laundry service, housekeeping, transportation, or security or clerical areas, and employees that do not work on the premises of the CBRF.

(48) “Respite care” means a person’s temporary placement in a CBRF for no more than 28 consecutive days for care, treatment or services as established by the primary care provider.

(49) “Room” means a space that is completely enclosed by walls and a ceiling.

(50) “Seclusion” means physical or social separation of a resident from others by actions of employees, but does not include separation to prevent the spread of communicable disease or voluntary cool-down periods in an unlocked room.

(51) “Semi-ambulatory” means a person is able to walk with difficulty or only with the assistance of an aid such as crutches, cane or a walker.

(52) “Significant change in a resident’s physical or mental condition” means one or more of the following:

(a) Decline in a resident’s medical condition that results in further impairment of a long term nature.

(b) Decline in 2 or more activities of daily living.

(c) A pronounced decline in communication or cognitive abilities.

(d) Decline in behavior or mood to the point where relationships have become problematic.

(e) Significant improvement in any of the conditions in pars. (a) to (d).

(53) “Standard precautions” means measures taken to reduce the risk of transmission of infection from contact with blood, body fluids or other moist body substances including all mucous membranes, non-intact skin, blood, all body fluids, secretions, and excretions except sweat, whether or not they contain visible blood.

(54) “Supervision” means oversight of a resident’s daily functioning, keeping track of a resident’s whereabouts and providing guidance and intervention when needed by a resident.

(55) “Terminal illness” means a medical prognosis issued in writing by a physician or other qualified medical professional that an individual’s life expectancy is less than 12 months.

(56) “Therapeutic diet” means a food regimen ordered by a physician or other medical professional directed by the physician.

(57) “Unit dose” means medications packaged by a pharmacist in blister cards, punch cards, strip packaging, medication reminder boxes or other similar packaging where the medication dose is packaged in a pre-selected dose.

(58) “Utensils” means dishes, silverware and pots and pans used for preparing, serving or consuming food.

(59) “Volunteer” means any person who provides services for residents without compensation, except for reimbursement of expenses related to services provided at the CBRF.

HFS 83.03 Variance and waiver. (1) In this section:

(a) “Variance” means the granting of an alternate means of meeting a requirement in this chapter.

(b) “Waiver” means the granting of an exemption from a requirement of this chapter.

(2) EXCEPTION TO A REQUIREMENT. (a) The department may grant a waiver or variance if the department determines that the proposed waiver or variance will not jeopardize the health, safety, welfare or rights of any resident.

(b) A written request for a waiver or variance shall be sent to the department and include justification that the waiver or variance will not adversely affect the health, safety or welfare of any resident for the requested action.

(c) A written request for a variance shall include a description of an alternative means planned to meet the intent of the requirement.

Note: Send a request for a waiver or variance of a requirement of this chapter to the appropriate regional office of the Department’s Division of Quality Assurance listed in Appendix A. Information about the Division of Quality Assurance can be found at: http://dhs.wi.gov/rl_dsl/bqainternet.htm

(3) The department may rescind a waiver or variance if any of the following occurs:

(a) The department determines the waiver or variance has adversely affected the health, safety or welfare of the residents.

(b) The CBRF fails to comply with any of the conditions of the waiver or variance as granted.

SUBCHAPTER II – LICENSING

HFS 83.04 Licensing categories. The department shall license each CBRF as follows: **(1)** SIZE.

(a) A CBRF for 5 to 8 residents is a small CBRF.

(b) A CBRF for 9 to 20 residents is a medium CBRF.

(c) A CBRF for 21 or more residents is a large CBRF.

(2) CLASSIFICATION. (a) *Class A ambulatory*. A class A ambulatory CBRF serves only residents who are ambulatory and who are mentally and physically capable of responding to a fire alarm by exiting the CBRF without any help or verbal or physical prompting.

(b) *Class A semi-ambulatory (AS).* A class A semi-ambulatory CBRF serves only residents who are ambulatory or semi-ambulatory and who are mentally and physically capable of responding to a fire alarm by exiting the CBRF without any help or verbal or physical prompting.

(c) *Class A non-ambulatory (ANA).* A class A non-ambulatory CBRF serves residents who are ambulatory, semi-ambulatory or non-ambulatory and who are mentally and physically capable of responding to a fire alarm by exiting the CBRF without any help or verbal or physical prompting.

(d) *Class C ambulatory (CA).* A class C ambulatory CBRF serves only residents who are ambulatory but one or more of whom are not mentally capable of responding to a fire alarm by exiting the CBRF without any help or verbal or physical prompting.

(e) *Class C semi-ambulatory (CS*). A class C semi-ambulatory CBRF serves only residents who are ambulatory or semi-ambulatory, but one or more of whom are not physically or mentally capable of responding to a fire alarm by exiting the CBRF without help or verbal or physical prompting.

(f) *Class C non-ambulatory (CNA).* A class C non-ambulatory CBRF serves residents who are ambulatory, semi-ambulatory or non-ambulatory, but one or more of whom are not physically or mentally capable of responding to a fire alarm by exiting the CBRF without help or verbal or physical prompting.

HFS 83.05 Application requirements. (1) No person may conduct, maintain, operate or permit to be maintained or operated a CBRF unless the CBRF is licensed by the department. A person who assumes ownership interest in a CBRF, regardless of whether the transfer includes title to the real estate, or changes the location of the CBRF shall complete an application as required under sub. (2).

(2) An application for initial licensure shall be on a form provided by the department and shall be accompanied by all of the following:

(a) A program statement as specified under s. HFS 83.06(1).

(b) A floor plan specifying dimensions of the CBRF, exits and planned room usage.

(c) A fire inspection form.

(d) All required fees.

(e) A balance sheet.

(f) Evidence that the applicant has 60 days of projected operating funds in reserve.

(g) Any additional information requested by the department.

NOTE: A copy of the application form can be obtained at http://dhs.wisconsin.gov/rl_dsl/CBRF/CBRFinqResp.htm or by contacting the Division of Quality Assurance Regional Office listed in Appendix A.

(3) The applicant shall provide evidence to the department that the license applicant has made a good faith effort to establish a community advisory committee under s. 50.03(4)(g), Stats.

(4) A CBRF may not be located on a parcel of land zoned for commercial, industrial or manufacturing use.

HFS 83.06 Program statement. (1) CONTENT. The program statement shall accurately include all of the following:

(a) The name of the licensee, the administrator and the staff position in charge when the licensee or administrator is away from the CBRF.

(b) Employee availability, including 24 hour staffing patterns and the availability of a licensed nurse, if any.

(c) The resident capacity of the CBRF.

(d) The class of the CBRF under s. HFS 83.04(2).

(e) The client group to be served. If serving more than one client group, the program statement shall include an explanation acceptable to the department of how the client groups are compatible with one another.

(f) A complete description of the program goals and services consistent with the needs of residents.

(g) Limitations of services, including the criteria for determining who may reside in the CBRF.

(h) Respite care services, if provided.

(2) AVAILABILITY. (a) Before finalizing an agreement to provide care, the CBRF shall provide its program statement to each person seeking placement or to the person's legal representative. CBRFs serving only clients of a government correctional agency are exempt from paragraph (a).

(b) The program statement shall be available to employees, to residents and to any other person upon request.

(3) CHANGE IN PROGRAM STATEMENT. Any change in the program statement content under sub. (1) shall be submitted to the department at least 30 days before its effective date.

HFS 83.07 Fit and qualified. (1) ELLIGIBILITY. An applicant may not be licensed unless the department determines the applicant is fit and qualified to operate a CBRF.

(2) STANDARDS. In determining whether a person is fit and qualified, the department shall consider all of the following:

(a) *Compliance history.* Compliance history with Wisconsin or any other state's licensing requirements and with any federal certification requirements, including any license revocation or denial.

(b) *Criminal history.* Arrest and criminal records, including any of the following:

1. Crimes or acts involving abuse, neglect or mistreatment of a person or misappropriation of property of the person.

2. Crimes or acts subject to elder abuse reporting under s. 46.90, Stats.

3. Crimes or acts related to the manufacture, distribution, prescription, use, or dispensing of a controlled substance.

4. Fraud or substantial or repeated violations of applicable laws and rules in the operation of any health care facility or in the care of dependent persons.

5. A conviction or pending criminal charge which substantially relates to the care of adults or minors, to the funds or property of adults or minors, or to the operation of a residential or health care facility.

(c) *Financial history.* Financial stability, including

1. Financial history and financial viability of the owner or related organization.

2. Outstanding debts or amounts due to the department or other government agencies, including unpaid forfeitures and fines.

HFS 83.08 Department action. (1) INITIAL LICENSE. (a*)* Within 70 days after receipt of a complete application, the department shall either approve or deny the license. The initial license issued by the department to an applicant may be a probationary license.

(b) A probationary or regular license issued by the department shall be only for the premises and persons named in the application. A license may not be transferred or assigned.

(c) A probationary license may be valid for up to 12 months, unless sooner revoked.

(d) A regular license is valid until suspended or revoked by the department.

(2) LICENSE DENIAL. The department shall deny a probationary or regular license to any applicant who does not substantially comply with any provision of this chapter or chapter 50, Stats., or who is not fit and qualified as specified in s. HFS 83.07 or who has failed to pay any fee or any outstanding amounts due to the department. The department shall provide the reasons for denial and the process for appeal of the denial in a written notice to the applicant.

(3) LICENSE REVOCATION. The department may revoke a license for any of the reasons and under the conditions specified under s. 50.03(5g)(d) to (g), Stats.

HFS 83.09 Biennial report and fees. Every 24 months, on a date determined by the department, the licensee shall submit a biennial report on the form provided by department, and shall submit payment of the license continuation fees.

HFS 83.10 Change of ownership. (1) DUTIES OF THE TRANSFEROR. (a) The transferor shall notify the department within 30 days before the final change of ownership of a CBRF and shall include the name and contact information of the transferee.

(b) The transferor remains responsible for the operation of the CBRF until the department issues a license to the transferee, unless the CBRF voluntarily closes, and relocates all residents.

(c) The transferor shall disclose to the transferee any existing department waiver, variance or outstanding deficiencies. The transferee shall apply for continuation of any existing waivers or variances, if necessary.

(d) The transferor shall follow the requirements for transferring financial responsibility under s. HFS 83.34(7).

(e) The transferor shall remain liable for all forfeitures assessed against the facility which is imposed for violations occurring prior to transfer of ownership.

(f) The transferor shall notify residents or resident's legal representatives no less than 7 days in advance of the transfer of ownership.

(2) DUTIES OF THE TRANSFEREE. (a) When there is a change of ownership, the transferee shall notify the department of the transfer, and shall submit a complete application as required under s. HFS 83.05 at least 30 days prior to final transfer date.

(b) If there is less than 30 days notice given to residents of transfer of ownership, neither the transferor nor the transferee may enforce any advanced notice requirements for discharge as specified in any resident's admission agreement.

(3) TRANSFERABILITY. (a) The department shall issue a license only for the premises and persons named in the license application. A license may not be transferred or reassigned.

(b) The licensee shall notify the department in writing at least 30 days before the effective date of any of the following changes:

1. Removing, adding or substituting an individual as a partner in the association, dissolving the existing partnership and creating a new partnership.

2. Removing, adding, or substituting any member in a limited liability company.

3. Making a change in a corporate structure under which the same corporation no longer continues to be responsible for making operational decisions or for the consequences of those decisions.

HFS 83.11 Facility closing. (1) Any CBRF that intends to close shall notify the department in writing at least 30 days before closing and comply with the requirements under s. 50.03 (5m), Stats., and s. HFS 83.31.

(2) If a CBRF is closing, intends to close, or changes its type or level of service or means of reimbursement and will relocate 5 residents or 5% of the CBRF's residents, whichever is greater, the CBRF shall follow the procedures under s. 50.03(14), Stats.

(3) The CBRF shall surrender the license to the department when the CBRF closes.

HFS 83.12 Investigation, notification, and reporting requirements. (1) DEATH REPORTING. (a) *Resident death related to physical restraint, psychotropic medication or suicide.* No later than 24 hours after the death of a resident, the CBRF shall report the death to the department if there is reasonable cause to believe the death was related to the use of a physical restraint or psychotropic medication, or was a suicide.

(b) *Resident death related to an accident or injury*. When a resident dies as a result of an incident or accident not related to the use of a physical restraint, psychotropic medication, or suicide, the CBRF shall send a report to the department within 3 working days of the resident's death.

(c) *Resident death due to natural causes*. A CBRF is not required to report a death to the department if the death is the result of natural causes, and none of the circumstances surrounding the death involve a condition under par. (a) or (b).

(2) INVESTIGATING AND REPORTING ABUSE, NEGLECT OR MISAPPROPRIATION OF PROPERTY. (a) *Caregiver*. 1. When a CBRF receives a report of an allegation of abuse or neglect of a resident, or misappropriation of property, the CBRF shall take immediate steps to ensure the safety of all residents.

2. The CBRF shall investigate and document any allegation of abuse or neglect of a resident, or misappropriation of property by a caregiver. If the CBRF's investigation concludes that the alleged abuse, or neglect of a resident or misappropriation of property meets the definition of abuse or neglect of a resident, or of misappropriation of property, the CBRF shall report the incident to the department on a form provided by the department, within 7 calendar days from the date the CBRF knew or should have known about the abuse, neglect, or misappropriation of property. The CBRF shall maintain documentation of any investigation.

Note: For copies of the report form, contact the Division of Quality Assurance, Office of Caregiver Quality at P.O. Box 2969, Madison WI 53701-2969 or at dhs.wisconsin.gov/caregiver/index.htm.

(b) *Non-caregiver or resident.* When there is an allegation of abuse or neglect of a resident, or misappropriation of property by a non-caregiver or resident, the CBRF shall follow the elder abuse reporting requirements under s. 46.90 Stats., or the adult at risk requirements under s. 55.043, Stats., whichever is applicable.

(c) *Other reporting.* Filing a report under sub. (1) or (2) does not relieve the licensee or other person of any obligation to report an incident to any other authority, including law enforcement and the coroner.

(3) INVESTIGATING INJURIES OF UNKNOWN SOURCE. (a) A CBRF shall investigate any of the following:

1. An injury that was not observed by any person.

2. The source of an injury to a resident that cannot be adequately explained by the resident.

3. An injury to a resident that appears suspicious because of the extent of the injury or the location of the injury on the resident.

(b) The CBRF shall maintain documentation of each investigation of an injury referenced under par. (a). The CBRF shall report the incident as required under sub. (2).

(4) OTHER REPORTING AND NOTIFICATION REQUIREMENTS. A CBRF shall send a written report to the department within 3 working days after any of the following occurs:

(a) Any time a resident's whereabouts are unknown, except those instances when a resident who is competent chooses not to disclose his or her whereabouts or location to the CBRF, the CBRF shall notify the local law enforcement authority immediately upon discovering that a resident is missing. This reporting requirement does not apply to residents under the jurisdiction of government correctional agencies or persons recovering from substance abuse.

(b) Any time law enforcement personnel are called to the CBRF as a result of an incident that jeopardizes the health, safety, or welfare of residents or employees. The CBRF's report to the department shall provide a description of the circumstances requiring the law enforcement intervention. This reporting requirement does not apply to residents under the jurisdiction of government correctional agencies.

(c). Any incident or accident resulting in serious injury requiring hospital admission or emergency room treatment of a resident.

(d). A catastrophe occurs resulting in damage to the CBRF.

(e). A fire occurs on the premises of the CBRF.

(f). Any time the CBRF must evacuate and temporarily relocate residents and employees from the CBRF for reasons other than a fire drill.

(5) NOTIFICATION OF CHANGES AFFECTING A RESIDENT. (a) The CBRF shall immediately notify the resident's legal representative and the resident's physician when there is an incident or injury to the resident or a significant change in the resident's physical or mental condition.

(b) The CBRF shall immediately notify the resident's legal representative when there is an allegation of physical, sexual or mental abuse, or neglect of a resident. The CBRF shall notify the resident's legal representative within 72 hours when there is an allegation of misappropriation of property.

(c) The CBRF shall give the resident or the resident's legal representative a 30-day written notice of any change in services available or in charges for services that will be in effect for more than 30 days.

(6) DOCUMENTATION. All written reports required under this section shall include, at a minimum, the time, date, place, individuals involved, details of the occurrence, and the action taken by the provider to ensure residents' health, safety and well-being.

HFS 83.13 General records, retention and posting. (1) GENERAL RECORDS. The CBRF shall maintain documentation of all of the following:

(a) Investigations and reports of all allegations of abuse or neglect of a resident, or misappropriation property as required under s. HFS 83.12(2).

(b) Investigations and reports of all injuries of unknown source as required under s. HFS 83.12 (3).

(c) Employees' schedules as required under s. HFS 83.36(2).

(d) Maintenance of the heating system as required under s. HFS 83.46(1)(c).

(e) Flue maintenance as required under s. HFS 83.46(1)(e).

(f) Results of the annual well water testing as required under s. HFS 83.46(3), if the CBRF does not use a public water supply.

(g) Dates, times and total evacuation times of quarterly fire drills as required under s. HFS 83.47 (2)(d).

(h) Residents' evacuation time and type of assistance as required under s. HFS 83.47(2)(d).

(i) Results of the annual fire inspection as required under s. HFS 83.47(3).

(j) Results of the CBRF's smoke and heat detection system testing as required under s. HFS 83.48(3).

(k) Results of testing and maintenance of the smoke and heat detection system in a building with multiple occupancies as required under s. HFS 83.57(1)(c).

(2) RECORDS RETENTION. **(a)**The CBRF shall retain all records required under this chapter for 2 years, unless otherwise specified under pars. (b) to (d).

(b) Resident records shall be retained for 7 years following the date of a resident's final discharge.

(c) Employee records shall be retained for 3 years following an employee's separation from employment at the CBRF.

(d) Dated menus shall be retained for 60 days.

(3) POSTING. The CBRF shall post all of the following:

(a) CBRF license, any statement of deficiency, notice of revocation and any other notice of enforcement action as required under s. HFS 83.14(2)(h).

(b) House rules, resident rights and grievance procedures as required under s. HFS 83.32(2)(b).

(c) The poster provided by the board on aging and long term care ombudsman program as required under s. HFS 83.33(4).

(d) Activity schedule as required under s. HFS 83.38(1)(c).

(e) The CBRF's exit diagram as required under s. HFS 83.47(2)(b).

(f) Emergency phone numbers as required under s. HFS 83.47(2)(h).

SUBCHAPTER III – PERSONNEL

HFS 83.14 Licensee. (1) QUALIFICATIONS. (a) A licensee shall be at least 21 years of age and be fit and qualified under s. 50.03(4), Stats., and s. HFS 83.07.

(b) A licensee shall meet the caregiver background requirements under s. 50.065, Stats., and ch. HFS 12.

(2) RESPONSIBILITIES. (a) The licensee shall ensure the CBRF and its operation comply with all laws governing the CBRF.

(b) The licensee shall report any change in client group in writing to the department at least 30 days in advance and may not implement the change until the licensee receives written approval from the department.

(c) The licensee shall report any change in capacity or class and may not implement the change until the licensee receives written approval from the department.

(d) The licensee shall provide to each resident, or the resident's legal representative, referral agency and third party payer, a 30-day written notice of any change in size, class or client group.

(e) The licensee shall notify the department within 7 days after there is a change in the administrator.

(f) The licensee shall ensure a copy of this chapter is in the CBRF.

(g) The licensee shall provide, in a format approved by the department, information required by the department to assess the facility's compliance with s. 55.14, Stats., relating to involuntary administration of psychotropic medication to a resident.

(h) The licensee shall post the CBRF license, any statement of deficiency, notice of revocation and any other notice of enforcement action in a public area that is visually and physically available. A statement of deficiency shall remain posted for 90 days following receipt. Notices of revocation and other notices of enforcement action shall remain posted until a final determination is made.

(i) The licensee shall make available the results of all department license renewal surveys, monitoring visits and any complaint investigations for the preceding 2 years when requested by any current or prospective resident, resident's legal representative, case manager or family member.

(j) The licensee may not permit the existence or continuation of any condition which is or may create a substantial risk to the health, safety or welfare of any resident.

(k) The licensee shall ensure that the presence of other occupants does not adversely affect the health, safety or welfare of residents.

HFS 83.15 Administrator. (1) QUALIFICATIONS. The administrator of a CBRF shall be at least 21 years of age and exhibit the capacity to respond to the needs of the residents and manage the complexity of the CBRF. The administrator shall have any one of the following qualifications:

(a) An associate degree or higher from an accredited college in a health care related field.

(b) A bachelor's degree in a field other than in health care from an accredited college and one year experience working in a health care related field having direct contact with one or more of the client groups identified under s. HFS 83.02(16).

(c) A bachelor's degree in a field other than in health care from an accredited college and have successfully completed a department-approved assisted living administrator's training course.

(d) At least 2 years experience working in a health care related field having direct contact with one or more of the client groups identified under s. HFS 83.02(16) and have successfully completed a department-approved assisted living administrator's training course.

(e) A valid nursing home administrator's license issued by the department of regulation and licensing.

(2) Persons who are the qualified administrator of record with the department of a CBRF on the effective date of this section…. [revisor inserts date], shall be exempt from the qualification requirements specified under sub. (1).

(3) RESPONSIBILITIES. (a) The administrator shall supervise the daily operation of the CBRF, including but not limited to, resident care and services, personnel, finances, and physical plant. The administrator shall provide the supervision necessary to ensure that the residents receive proper care and treatment, that their health and safety are protected and promoted and that their rights are respected.

(b) The administrator shall be responsible for the training and competency of all employees.

(c) A qualified resident care staff shall be designated as in charge whenever the administrator is absent from the CBRF.

HFS 83.16 Employee. (1) Each employee shall have the skills, education, experience and ability to fulfill the employee's job requirements.

(2) Resident care staff shall be at least 18 years old.

HFS 83.17 Hiring and employment. **(1)** CAREGIVER BACKGROUND CHECK. At the time of hire, employment or contract and every 4 years after, the licensee shall conduct and document a caregiver background check following the procedures in s. 50.065, Stats., and ch. HFS 12. A licensee shall not employ, contract with or permit a person to reside at the CBRF if the person has been convicted of the crimes or offenses, or has a governmental finding of misconduct, found in s. 50.065, Stats., and ch. HFS 12, Appendix A, unless the person has been approved under the department's rehabilitation process as defined in ch. HFS 12.

(2) EMPLOYEE HEALTH COMMUNICABLE DISEASE CONTROL. (a) The CBRF shall obtain documentation from a physician, physician assistant, clinical nurse practitioner or a licensed registered nurse indicating all employees have been screened for clinically apparent communicable disease including tuberculosis. Screening for tuberculosis shall be conducted using centers for disease control and prevention standards. The screening and documentation shall be completed within 90 days before the start of employment. The CBRF shall keep screening documentation confidential, except the department shall have access to the screening documentation for verification purposes.

(b) Employees shall be re-screened for clinically apparent communicable disease as described in par. (a) based on the likelihood of exposure to communicable disease, including tuberculosis.

(c) A person who has a communicable disease shall not be permitted to work or be present in the CBRF if the disease would present a risk to the health or safety of residents.

NOTE: For information from the center for disease control and prevention regarding screening for tuberculosis go to http://www.cdc.gov/

HFS 83.18 Employee records. **(1)** A separate record for each employee shall be maintained, kept current, and at a minimum, include:

(a) A written job description including duties, responsibilities and qualifications required for the employee.

(b) Beginning date of employment.

(c) Educational qualifications for administrators.

(d) A completed caregiver background check following procedures under s. 50.065, Stats., and ch. HFS 12.

(e) Documentation of training, or exemption verification.

(2) Employee records shall be available upon request at the CBRF for review by the department.

SUBCHAPTER IV – ORIENTATION AND TRAINING

HFS 83.19 Orientation. Before an employee performs any job duties, the CBRF shall provide each employee with orientation training which shall include all of the following:

(1) Job responsibilities.

(2) Prevention and reporting of resident abuse, neglect and misappropriation of resident property.

(3) Information regarding assessed needs and individual services for each resident for whom the employee is responsible.

(4) Emergency and disaster plan and evacuation procedures under s. HFS 83.47(2).

(5) CBRF policies and procedures.

(6) Recognizing and responding to resident changes of condition.

HFS 83.20 Department-approved training. **(1)** APPROVED TRAINING. (a) Training for standard precautions, fire safety, first aid and choking, and medication administration and management shall be approved by the department or designee and shall be provided by trainers approved by the department or designee. Approvals for training plans and trainers for standard precautions, fire safety, first aid and choking, and medication administration and management issued before the effective date of this section…. [revisor inserts date] shall expire one year after the effective date of this section…. [revisor inserts date].

(b) The CBRF shall maintain documentation of the training in par. (a), including the trainer approval number, the name of the employee, training topic and the date training was completed.

(2) APPROVED COURSES. (a) *Standard Precautions.* All employees who may be occupationally exposed to blood, body fluids or other moist body substances, including mucous

membranes, non-intact skin, secretions, and excretions except sweat, whether or not they contain visible blood shall successfully complete training in standard precautions before the employee assumes any responsibilities that may expose the employee to such material.

(b) *Fire safety*. Within 90 days after starting employment, all employees shall successfully complete training in fire safety.

(c) *First aid and choking.* Within 90 days after starting employment, all employees shall successfully complete training in first aid and procedures to alleviate choking.

(d) *Medication administration and management*. Any employee who manages, administers or assists residents with prescribed or over-the-counter medications shall complete training in medication administration and management prior to assuming these job duties.

HFS 83.21 All employee training. The CBRF shall provide, obtain or otherwise ensure adequate training for all employees in all of the following:

(1) RESIDENT RIGHTS. Training shall include general rights of residents including rights as specified under s. HFS 83.32(3). Training shall be provided as applicable under ss. 50.09 and 51.61 and chs. 54, 55, and 304, Stats., and ch. HFS 94, depending on the legal status of the resident or service the resident is receiving. Specific training topics shall include house rules, coercion, retaliation, confidentiality, restraints, self-determination, and the CBRF's complaint and grievance procedures. Residents' rights training shall be completed within 90 days after starting employment.

(2) CLIENT GROUP. (a) Training shall be specific to the client group served and shall include the physical, social and mental health needs of the client group. Specific training topics shall include, as applicable: characteristics of the client group served, activities, safety risks, environmental considerations, disease processes, communication skills, nutritional needs, and vocational abilities. Client group specific training shall be completed within 90 days after starting employment.

(b) In a CBRF serving more than one client group, employees shall receive training for each client group.

(3) RECOGNIZING, PREVENTING, MANAGING AND RESPONDING TO CHALLENGING BEHAVIORS. Specific training topics shall include, as applicable: elopement, aggressive behaviors, destruction of property, suicide prevention, self-injurious behavior, resident supervision, and changes in condition. Challenging behaviors training shall be completed within 90 days after starting employment.

HFS 83.22 Task specific training. The CBRF shall provide, obtain or otherwise ensure adequate training for employees performing job duties in all of the following:

(1) ASSESSMENT OF RESIDENTS. All employees responsible for resident assessment shall successfully complete training in the assessment of residents prior to assuming these job duties. Specific training topics shall include: assessment methodology, assessment of changes in condition, sources of assessment information, and documentation of the assessment.

(2) INDIVIDUAL SERVICE PLAN DEVELOPMENT. All employees responsible for service plan development shall successfully complete training in individual service plan development prior to assuming these job duties. Specific training topics shall include: identification of the resident's needs

and desired outcomes, development of goals and interventions, service plan evaluation and review of progress.

(3) PROVISION OF PERSONAL CARE. All employees responsible for providing assistance with activities of daily living shall successfully complete training prior to assuming these job duties. Specific training topics shall include, as appropriate: bathing, eating, dressing, oral hygiene, nail and foot care, toileting and incontinence care, positioning and body alignment, and mobility and transferring.

(4) DIETARY TRAINING. All employees performing dietary duties shall complete dietary training within 90 days after assuming these job duties. Specific training topics shall include: determining nutritional needs, menu planning, food preparation and food sanitation.

HFS 83.23 Employee supervision. Until an employee has completed all required training, the employee shall be directly supervised by the administrator or by qualified resident care staff.

HFS 83.24 Exemptions. (1) EXEMPTIONS FOR COMPLETED TRAINING. Employees who have completed department-approved training in standard precautions, fire safety, first aid and choking, and medication administration and management prior to or the effective date of this section…. [revisor inserts date] or who receive such training within one year after the effective date of this section ….[revisor inserts date] shall be exempt from the training specified under s. HFS 83.20 (2).

(2) GENERAL EXEMPTIONS. A practitioner, licensed pharmacist, registered nurse or licensed practical nurse is exempt from training specified in ss. HFS 83.20(2) (a), (c) and (d), 83.21 and 83.22.

(3) EXEMPTIONS FROM STANDARD PRECAUTIONS TRAINING. Except as stated in subs. (1) and (2), the following individuals are exempt from training in standard precautions:

(a) Emergency medical technicians.

(b) Employees who can provide documentation that they have had training from a regulated health care entity in the practice of standard precautions within the previous year.

(c) A nurse aide certified after 1999 and in good standing on the Wisconsin Nurse Aide Registry.

(4) EXEMPTIONS FROM FIRE SAFETY TRAINING. Except as stated under sub. (1), firefighters are exempt from training in fire safety.

(5) EXEMPTIONS FROM FIRST AID AND CHOKING TRAINING. Except as stated in subs. (1) and (2), the following individuals are exempt from training in first aid and choking:

(a) Emergency medical technicians.

(b) Student nurses who have successfully completed related training.

(6) EXEMPTIONS FROM MEDICATION ADMINISTRATION AND MANAGEMENT TRAINING. Except as stated under subs. (1) and (2), the following individuals are exempt from medication administration and management training:

(a) Nurse aides who have completed a medication aide training program and are in good standing on the Wisconsin Nurse Aide Registry.

(b) Student nurses currently enrolled in a nursing program that has successfully completed a medication administration course.

(c) Other licensed health care persons whose licensure and scope of practice allows medication administration.

Note: See ch. HFS 129 for medication aide training standards.

(7) EXEMPTIONS FROM CLIENT GROUP TRAINING, RESIDENT RIGHTS TRAINING, AND CHALLENGING BEHAVIOR TRAINING. Except as specified under subs. (1) and (2), all of the following individuals are exempt from client group training, resident rights training and challenging behavior training:

(a) Licensed nursing home administrators.

(b) Substance abuse counselors as defined under ch. RL 160.02(26).

(c) Employees with a degree in social work, psychology or a similar human services field.

(d) Student nurses who have successfully completed related courses.

(e) A nurse aide in good standing on the Wisconsin Nurse Aide Registry.

(8) EXEMPTION FROM PROVISION OF PERSONAL CARE TRAINING. A nurse aide in good standing on the Wisconsin Nurse Aide Registry is exempt from provision of personal care training.

(9) EXEMPTIONS FROM ASSESSMENT AND INDIVIDUAL SERVICE PLAN DEVELOPMENT TRAINING. Except under subs. (1) and (2), the following individuals are exempt from assessment and individual service plan development training:

(a) Licensed nursing home administrators

(b) Substance abuse counselors as defined under ch. RL 160.02(26).

(c) Employees with a degree in social work, psychology or a similar human services field.

(d) Student nurses who have successfully completed related courses.

(10) EXEMPTIONS FROM DIETARY TRAINING. Except under subs. (1) and (2), the following individuals are exempt from training in determining dietary needs, menu planning, food preparation and sanitation:

(a) Registered dietitians.

(b) Employees whose only responsibility is delivering meals.

(c) Employees who have completed an associate in applied science degree in culinary arts.

(d) A certified dietary manager.

HFS 83.25 Continuing education. The administrator and resident care staff shall receive at least 15 hours per calendar year of continuing education beginning with the first full calendar year of employment. Continuing education shall be relevant to the job responsibilities and shall include, at a minimum, all of the following:

(1) Standard precautions.

(2) Client group related training.

(3) Medications.

(4) Resident rights.

(5) Prevention and reporting of abuse, neglect and misappropriation.

(6) Fire safety and emergency procedures, including first aid.

HFS 83.26 Documentation. (1) The CBRF shall maintain documentation of all employee training under s. HFS 83.21 and task specific training under s. HFS 83.22 and shall include the name of the employee, the name of the instructor, the dates of training, a description of the course content, and the length of the training.

(2) Employee orientation and hours of continuing education shall be documented in the employee's file.

SUBCHAPTER V – ADMISSION, RETENTION AND DISCHARGE

HFS 83.27 Limitations on admissions and retentions. (1) LICENSE CAPACITY. (a) No CBRF may have more residents, including respite care residents, than the maximum bed capacity on its license.

(b) The CBRF may not have more than 4 residents, or 10% of the licensed capacity, whichever is greater, who need more than 3 hours of nursing care per week or care above intermediate level nursing care for not more than 30 days unless the facility has obtained a waiver from the department or the department has received a request for a waiver from the CBRF and the department's decision is pending.

(2) ADMISSION AND RETENTION LIMITATIONS. A CBRF may not admit or retain any of the following persons:

(a) A person who has an ambulatory or cognitive status that is not compatible with the license classification under s. HFS 83.04(2).

(b) A person who is destructive of property or self, or who is physically or mentally abusive to others, unless the CBRF has sufficient resources to care for such an individual and is able to protect the resident and others.

(c) A person who has physical, mental, psychiatric or social needs that are not compatible with the client group as described in the CBRF's program statement.

(d) A person who needs more than 3 hours of nursing care per week except for a temporary condition needing more than 3 hours of nursing care per week for no more than 30 days. If the CBRF requests a waiver or variance, the department may grant a waiver or variance to this requirement, as described under s. HFS 83.03, if the following conditions are met:

1. The resident's clinical condition is stable and predictable, does not change rapidly, and medical orders are unlikely to involve frequent changes or complex modifications and the resident's clinical condition is one that may be treatable, or the resident has a long-term condition needing more than 3 hours of nursing care per week for more than 30 days.

2. The resident is otherwise appropriate for the level of care provided in the CBRF.

3. The services needed to treat the resident's condition are available in the CBRF.

(e) A person whose condition requires 24-hour supervision by a registered nurse or licensed practical nurse.

(f) A person whose condition requires care above intermediate level nursing care.

(g) A person who requires a chemical or physical restraint except as authorized under s. 50.09 (1) (k), Stats.

(h) A person who is incapacitated, as defined under s. 50.06(1), Stats., unless the person has a health care agent under a valid and properly activated power of attorney for health care under ch. 155, Stats., or a court appointed guardian under ch. 54, Stats., except for the admission of an incapacitated individual who does not have such a legal representative, and who is admitted directly from the hospital according to the provision of s. 50.06, Stats.

(i) A person who resides in a CBRF licensed for 16 or more residents, and has been found incompetent under ch. 54, Stats., and does not have a court-ordered protective placement under s. 55.12, Stats.

(3) ADMISSION OF MINORS. The CBRF may not admit a person under 18 years of age without written approval of the department and only if any of the following apply:

(a) The CBRF is also licensed under ch. HFS 57 as a group foster care home or under ch. HFS 52 as a residential care center for children and youth.

(b) The minor has been waived to an adult court under s. 938.18, Stats.

(c) The minor is the child of an adult resident. When the minor child of an adult resident resides in a CBRF, all of the following shall apply:

1. The adult resident retains custody and control of the child.

2. The CBRF shall have written policies related to the presence of minors in the CBRF, including policies on parental responsibility, school attendance and any care, treatment or services provided to the minors by the CBRF.

HFS 83.28 Admission procedures. (1) ASSESSMENT. The CBRF shall assess each resident before admission as required under s. HFS 83.35(1).

(2) SERVICES AND CHARGES. Before or at the time of admission, the CBRF shall provide written information regarding services available and charges for those services as required in s. HFS 83.29(1).

(3) ADMISSION AGREEMENT. Before or at the time of admission, the CBRF shall provide the admission agreement as required under s. HFS 83.29(2).

(4) HEALTH SCREENING. (a) *Resident health screening.* 1. Within 90 days before or 7 days after admission, a physician, physician assistant, clinical nurse practitioner or a licensed registered nurse shall screen each person admitted to the CBRF for clinically apparent communicable disease, including tuberculosis, and document the results of the screening.

2. Screening for tuberculosis and all immunizations shall be conducted using centers for disease control and prevention standards.

3. The CBRF shall maintain the screening documentation in each resident's record.

(b) *Respite care health screening.* 1. Within 90 days before or 7 days after admission for persons in respite care who will reside in the CBRF for more than 7 days, a physician, physician assistant, clinical nurse practitioner or a licensed registered nurse shall screen each respite care person for clinically apparent communicable disease, including tuberculosis, and document the results of the screening.

2. If the person did not provide evidence of health screening required under subd. 1., prior to the second admission in a calendar year of a person in respite care, a physician, physician assistant, clinical nurse practitioner or a licensed registered nurse shall screen each respite care person for clinically apparent communicable disease, including tuberculosis, and document the results of the screening.

3. Screening for tuberculosis and all immunizations shall be conducted using centers for disease control and prevention standards.

4. The CBRF shall maintain the screening documentation for each respite care person.

(5) TEMPORARY SERVICE PLAN. Upon admission, the CBRF shall develop a temporary service plan as required under s. HFS 83.35(2).

(6) RESIDENT RIGHTS, GRIEVANCE PROCEDURE AND HOUSE RULES. Before or at the time of admission, the CBRF shall provide and explain resident rights, the house rules of the CBRF as

required under s. HFS 83.32 (2), and the grievance procedure, including written information regarding the names, addresses and telephone numbers of all resident advocacy groups serving the client groups in the facility, including the long term care ombudsman program and the protection and advocacy services of Disability Rights Wisconsin, Inc.

(7) ADVANCED DIRECTIVES. At the time of admission, the CBRF shall determine if the resident has executed an advanced directive. An advanced directive describes, in writing, the choices about treatments the resident may or may not want and about how health care decisions should be made for the resident if the resident becomes incapacitated and cannot express their wishes. A copy of the document shall be maintained in the resident record as required under s. HFS 83.42(1)(p). A CBRF may not require an advanced directive as a condition of admission or as a condition of receiving any health care service. An advanced directive may be a living will, power of attorney for health care, or a do-not-resuscitate order under chs. 154 or 155, Stats., or other authority as recognized by the courts of this state.

HFS 83.29 Admission agreement. (1) SERVICES AND CHARGES. (a) 'Definition.' In this section, "entrance fee" means a payment required for admission to the CBRF that is in addition to the fees for services and security deposit.

(b) *Written information regarding services and charges.* Before or at the time of admission, the CBRF shall provide written information regarding services available and the charges for those services to each resident, including persons admitted for respite care, or the resident's legal representative,. This information shall include any charges for services not covered by the daily or monthly rate, any entrance fees, assessment fees and security deposit.

(c) *Written notice of any change in services or in charges*. The CBRF shall give the resident or the resident's legal representative a 30-day written notice of any change in services available or in charges for services that will be in effect for more than 30 days.

(2) ADMISSION AGREEMENT REQUIREMENTS. The admission agreement shall be given in writing and explained orally in the language of the prospective resident or legal representative. Admission is contingent on a person or that person's legal representative signing and dating an admission agreement. The admission agreement shall include all of the following:

(a) An accurate description of the basic services provided, the rate charged for those services and the method of payment.

(b) Information about all additional services offered, but not included in the basic services. The CBRF shall provide a written statement of the fees charged for each of these services.

(c) The method for notifying residents of a change in charges for services.

(d) Terms for resident notification to the CBRF of voluntary discharge. This paragraph does not apply to a resident in the custody of a government correctional agency.

(e) Terms for refunding charges for services paid in advance, entrance fees, or security deposits in the case of transfer, death or voluntary or involuntary discharge.

(f) A statement that the amount of the security deposit may not exceed one month's fees for services, if a security deposit is collected.

(g) Terms for holding and charging for a resident's room during a resident's temporary absence. This paragraph does not apply to a resident in the custody of a government correctional agency.

(h) Reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. This paragraph does not apply to a resident in the custody of a government correctional agency.

(3) REFUNDS. (a) The CBRF shall return all refunds due a resident under the terms of the admission agreement within 30 days after the date of discharge.

(b) During the first 6 months following the date of initial admission, the CBRF shall refund the entire entrance fee when the resident is discharged or when the resident meets the terms for notification to the CBRF of voluntary discharge as contained in the CBRF's admission agreement.

(4) CONFLICT WITH THIS CHAPTER. No statement of the admission agreement may be in conflict with any part of this chapter, unless the department has granted a waiver or variance of a provision of this chapter.

HFS 83.30 Family care information and referral. If the secretary of the department has certified that a resource center, as defined under s. HFS 10.13(42), is available for the facility under s. HFS 10.71, the CBRF shall provide information to prospective residents and refer residents and prospective residents to an aging and disability resource center as required under s. 50.035(4m) to (4p), Stats., and s. HFS 10.73.

HFS 83.31 Discharge or transfer. (1) APPLICABILITY. This section applies to all resident discharges except for persons in respite care.

(2) EMERGENCY OR TEMPORARY TRANSFERS. If a condition or action of a resident requires the emergency transfer of the resident to a hospital, nursing home or other facility for treatment not available from the CBRF, the CBRF may not involuntarily discharge the resident unless the requirements under sub. (4) are met.

(3) DISCHARGE OR TRANSFER INITIATED BY RESIDENT. (a) Any competent resident may initiate transfer or discharge at any time in accordance with the terms of the admission agreement if the resident is not in the custody of a government correctional agency, committed under s. 51.20, Stats., or under a court-ordered protective placement under s. 55.12, Stats.

(b) If a resident found incompetent under ch. 54, Stats., protests the resident's admission or continued stay, the licensee or designee shall immediately notify the legal representative and the county protective services agency to obtain a determination about whether to discharge the resident under s. 55.055(3), Stats.

(4) DISCHARGE OR TRANSFER INITIATED BY CBRF. (a) *Notice and discharge requirements.* 1. Before a CBRF involuntarily discharges a resident, the licensee shall give the resident or legal representative a 30 day written advance notice. The notice shall explain to the resident or legal

representative the need for and possible alternatives to the discharge. Termination of placement initiated by a government correctional agency does not constitute a discharge under this section.

2. The CBRF shall provide assistance in relocating the resident and shall ensure that a living arrangement suitable to meet the needs of the resident is available before discharging the resident.

(b) *Reasons for involuntary discharge.* The CBRF may not involuntarily discharge a resident except for any of the following reasons:

1. Nonpayment of charges, following reasonable opportunity to pay.

2. Care is required that is beyond the CBRF's license classification.

3. Care is required that is inconsistent with the CBRF's program statement and beyond that which the CBRF is required to provide under the terms of the admission agreement and this chapter.

4. Medical care is required that the CBRF cannot provide.

5. There is imminent risk of serious harm to the health or safety of the resident, other residents or employees, as documented in the resident's record.

6. As provided under s. 50.03 (5m), Stats.

7. As otherwise permitted by law.

(c) *Notice requirements*. Every notice of involuntary discharge shall be in writing to the resident or resident's legal representative and shall include all of the following:

1. A statement setting forth the reason and justification for discharge listed under par. (b).

2. A statement that the resident or the resident's legal representative may ask the department to review the involuntary discharge by sending a written request within 10 days of receipt of the discharge statement to the department's regional office with a copy to the CBRF. The notice shall state that the request must provide an explanation why the discharge should not take place.

3. The name, address and telephone number of the department's regional office director.

4. The name, address and telephone number of the regional office of the board on aging and long term care's ombudsman program. For residents with developmental disability or mental illness, the notice shall include the name, address and telephone number of the protection and advocacy agency designated under s. 51.62(2)(a), Stats.

(d) *Department review of discharge*. 1. A resident may request department review of an involuntary discharge within 10 days of receipt of such notice. If a timely request is sent to the department, the CBRF may not proceed with an involuntary discharge until the department has completed its review and notified the resident or the resident's legal representative and the CBRF of the department's decision.

2. Within 7 days after receiving the copy of the letter requesting the review, the CBRF may provide to the department's regional office, additional information justifying the discharge.

3. The department shall complete its review within 10 days after the CBRF submits additional information under subd. 2, if any, and will notify in writing the resident or the resident's legal representative and the CBRF of the department's decision.

Note: See Appendix A for the addresses and phone numbers of the Department's Division of Quality Assurance, Bureau of Assisted Living regional offices.

(e) *Coercion and retaliation prohibited.* Any form of coercion to discourage or prevent a resident or legal representative from requesting a department review of any notice of involuntary discharge is prohibited. Any form of retaliation against a resident or legal representative for requesting a department review, or against an employee who assists in submitting a request for department review or otherwise provides assistance with a request for review, is prohibited.

(5) REMOVAL OR DISPOSAL OF RESIDENT'S BELONGINGS. If a resident or the resident's representative does not remove the resident's belongings within 30 days after discharge, the CBRF may dispose of the belongings. This subsection does not apply to a resident who absconds from the CBRF and who is under the custody of a government correctional agency or under the legal jurisdiction of a criminal court and for whom there is an apprehension order.

(6) DISBURSEMENT OF FUNDS. (a) The CBRF shall return all refunds due a resident within 30 days of the date of discharge as required under s. HFS 83.29(3).

(b) The CBRF shall return all resident funds held by the CBRF to the resident or the resident's legal representative within 14 days after discharge as required under s. HFS 83.34(4).

(7) INFORMATION PROVIDED AT THE TIME OF TRANSFER OR DISCHARGE. At the time of a resident's transfer or discharge, the CBRF shall inform the resident or the resident's legal representative and the resident's new place of residence that all of the following information is available in writing upon request:

(a) *Facility information.* The name and address of the CBRF, the dates of admission, and discharge or transfer, and the name and address of a person to contact for additional information.

(b) *Medical providers.* Names and addresses of the resident's physician, dentist and other medical care providers.

(c) *Emergency contacts.* Names and addresses of the resident's relatives or legal representative to contact in case of emergency.

(d) *Other contacts.* Names and addresses of the resident's significant social or community contacts.

(e) *Assessment and individual service plan.* The resident's assessment and individual service plan, or a summary of each.

(f) *Medical needs.* The resident's current medications and dietary, nursing, physical and mental health needs, if not included in the assessment or individual service plan.

(g) *Reason for discharge or transfer.* The reason for the resident's discharge or transfer.

SUBCHAPTER VI – RESIDENT RIGHTS AND PROTECTIONS

HFS 83.32 Rights of residents. (1) LEGAL RIGHTS. (a) Section 50.09, Stats., establishes specific rights for CBRF residents and prescribes mechanisms to resolve resident complaints and to hold the CBRF licensee accountable for violating resident rights. Other statutes, such as s. 51.61 and chs. 54, 55,155 and 304, Stats., and ch. HFS 94 may further clarify or condition a particular resident's right, depending on the legal status of the resident or a service received by the resident. The licensee shall comply with all applicable statutes and rules.

(b) The licensee shall protect the civil rights of residents as these rights are defined in the U.S. Constitution, the Wisconsin Constitution, the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Section 504 of the Rehabilitation Act of 1973, the Fair Housing Amendments Act of 1988, the Americans with Disabilities Act of 1990, and all other applicable federal and state statutes.

(2) EXPLANATION OF RESIDENT RIGHTS, GRIEVANCE PROCEDURE AND HOUSE RULES. (a) Before the admission agreement is signed by the resident or the resident's legal representative or at the time of admission, the CBRF shall provide a copy of and explain resident rights, the grievance procedure under s. HFS 83.33 and the house rules to the person being admitted, the person's legal representative, and family members of the person. The resident or the resident's legal representative shall be asked to sign a statement to acknowledge the receipt of an explanation of resident rights. The CBRF shall document the date and to whom the information was provided.

(b) The CBRF shall post copies of resident rights, grievance procedure and house rules in a prominent public place available to residents, employees and guests.

(3) RIGHTS OF RESIDENTS. Any form of coercion to discourage or prevent a resident or the resident's legal representative from exercising any of the rights under this subchapter is prohibited. Any form of retaliation against a resident or the resident's legal representative for exercising any of the rights in this subchapter, or against an employee or any other person who assists a resident or the resident's legal representative in the exercise of any of the resident rights in this subchapter, is prohibited. The rights established under this subsection do not apply to a resident in the legal custody of a government correctional agency, except as determined by a government correctional agency. In addition to the rights under s. 50.09, Stats., each resident shall have all of the following rights:

(a) *Communications.* Make and receive telephone calls within reasonable limits and in privacy. The CBRF shall provide at least one non-pay telephone for resident use. The CBRF may require residents who make long distance calls to do so at the resident's own expense.

(b) *Confidentiality.* Confidentiality of health and personal information and records, and the right to approve or refuse release of that information to any individual outside the CBRF, except when the resident is transferred to another facility or as required by law or third-party payment contracts and except as provided in s.146.82(2) and (3), Stats. The CBRF shall make the record available to the resident or the resident's legal representative for review. Copies of the record shall be made available within 30 days, if requested in writing, at a cost no greater than the cost of reproduction.

(c) *Free from labor.* Not be required by the CBRF to perform labor that is of any financial benefit to the CBRF. The CBRF may require personal housekeeping of the resident without compensation if it is for therapeutic purposes and is part of, and clearly identified in the resident's individual service plan.

(d) *Freedom from mistreatment.* Be free from physical, sexual and mental abuse and neglect, and from financial exploitation and misappropriation of property.

(e) *Freedom from seclusion.* Be free from seclusion.

(f) *Freedom from chemical restraints.* Be free from all chemical restraints.

(g) *Freedom from physical restraints.* Be free from physical restraints except upon prior review and approval by the department upon written authorization from the resident's primary physician or advanced practice nurse prescriber as defined in s. N 8.02(2). The department may place conditions on the use of a restraint to protect the health, safety, welfare and rights of the resident.

(h) *Receive medication.* Receive all prescribed medications in the dosage and at intervals prescribed by a practitioner. The resident has the right to refuse medication unless the medication is court ordered.

(i) *Prompt and adequate treatment.* Receive prompt and adequate treatment that is appropriate to the resident's needs.

(j) *Treatment options.* Participate in the planning of care and treatment, be fully informed of care and treatment options and have the right to refuse any form of care or treatment unless the care or treatment has been ordered by a court.

(k) *Self-determination*. Make decisions relating to care, activities, daily routines and other aspects of life which enhance the resident's self reliance and support the resident's autonomy and decision making.

(L) *Least restrictive environment.* Have the least restrictive conditions necessary to achieve the purposes of the resident's admission. The CBRF may not impose a curfew, rule or other restriction on a resident's freedom of choice.

(m) *Recording, filming, photographing.* Not be recorded, filmed or photographed without informed, written consent by the resident or resident's legal representative. The CBRF may take a photograph for identification purposes. The department may photograph, record or film a resident pursuant to an inspection or investigation under s. 50.03(2), Stats., without his or her written informed consent.

(n) *Safe environment.* Live in a safe environment. The CBRF shall safeguard residents from environmental hazards to which it is likely the residents will be exposed, including both conditions that are hazardous to anyone and conditions that are hazardous to the resident because of the residents' conditions or disabilities.

HFS 83.33 Grievance procedure. (1) A CBRF shall have a written grievance procedure and shall provide a copy to each resident and the resident's legal representative before or at the time of admission. The grievance procedure shall specify all of the following:

(a) A resident or any individual on behalf of the resident may file a grievance with the CBRF, the department, the resident's case manager, if any, the board on aging and long term care, Disability Rights Wisconsin, Inc., or any other organization providing advocacy assistance. The resident and the resident's legal representative shall have the right to advocate throughout the grievance procedure. The written grievance procedure shall include the name, address and phone number of organizations providing advocacy for the client groups served, and the name, address and phone number of the department's regional office that licenses the CBRF.

(b) Any person investigating the facts associated with a grievance shall not have had any involvement in the issue leading to the grievance.

(c) Any form of coercion to discourage or prevent any individual from filing a grievance or in retaliation for having filed a grievance is prohibited.

(d) The CBRF shall provide a written summary of the grievance, the findings and the conclusions and any action taken to the resident or the resident's legal representative and the resident's case manager. The CBRF shall maintain a copy of the investigation.

(2) The CBRF shall follow the grievance procedures under s. HFS 94.40 for any resident placed or funded by a county department of social services under s. 46.21 or 46.22, Stats., a county department of human services under s. 46.23, Stats., a county department of community programs, under s. 51.42, Stats., a county department of developmental disabilities services under s. 51.437, Stats., or for any resident who is receiving protective services or protective placement under ch. 55, Stats.

(3) The CBRF shall assist residents with grievance procedures as required under this section.

(4) The CBRF shall post in a conspicuous location in the CBRF a poster provided by the board on aging and long term care ombudsman program, concerning the long-term care ombudsman program under s. 16.009 (2)(b), Stats. The poster shall include the name, address and telephone number of the ombudsman's office. This requirement does not apply to those facilities exclusively licensed to serve clients under the jurisdiction of a government correctional agency.

HFS 83.34 Resident funds. (1) AUTHORIZATION. Except for a resident in the custody of a government correctional agency, the CBRF may not obtain, hold, or spend a resident's funds without written authorization from the resident or the resident's legal representative. The resident or the resident's legal representative may limit or revoke authorization at any time by writing a statement that shall specify the effective date of the limitation or revocation.

(2) FUNDS UNDER $200. (a) Upon written authorization, a CBRF may hold no more than $200 cash for use by the resident. The CBRF may not commingle residents' funds with the funds or property of the CBRF, the licensee, employees, or relatives of the licensee or employees.

(b) The CBRF shall have a legible, accurate accounting method for tracking residents' cash and shall include a record of any deposits, disbursements and earnings made to or on behalf of the resident. The CBRF shall provide a receipt to the resident or the resident's legal representative for all expenditures in excess of $20.

(c) The CBRF shall provide a written report of the resident's account to the resident or the resident's legal representative at least every 6 months. Upon written request from the resident or resident's legal representative, the CBRF shall provide a written monthly account of any financial transactions.

(3) FUNDS IN EXCESS OF $200. A CBRF receiving more than $200 of personal funds from a resident shall deposit funds in excess of $200 in an interest-bearing account in the resident's name in a savings institution insured by an agency of, or a corporation chartered by, this state or the United States.

(4) FINAL ACCOUNTING. Within 14 days after a resident is discharged, the CBRF shall provide to the resident or the resident's legal representative a written final accounting of all the resident's funds held by the CBRF and shall disburse any remaining money to the resident or to the resident's legal representative.

(5) LIMITATIONS. (a) No CBRF licensee, administrator or employee may do any of the following:

1. Sell to or purchase from a resident or prospective resident, real or personal property.

2. Accept or borrow money from a resident or prospective resident.

3. Be appointed as power of attorney for any resident unless related to the resident by blood or adoption.

4. Accept gifts from a resident except for gifts of nominal value.

(b) No CBRF, nor any employee on behalf of the CBRF, may accept donations from any resident, except those made by a competent resident or made with the knowledge of the resident's legal representative acting within the scope of their authority and only for the benefit of the CBRF. No employee may accept personal gifts, including monetary gifts, from a resident.

(6) SECURITY DEPOSIT. (a) If a CBRF collects a security deposit, the funds shall be deposited in an interest-bearing account insured by an agency of, or a corporation chartered by, this state or the United States.

(b) The amount of the security deposit shall not exceed one month's fees for services.

(c) The CBRF shall keep the security deposit account separate from other funds of the CBRF.

(d) Within 30 days after the resident's discharge, the security deposit and any interest earned shall be paid to the person who made the security deposit. Interest paid shall be the actual interest earned.

(7) TRANSFER OF FINANCIAL RESPONSIBILITY. When a change of ownership of the CBRF occurs, the transferor shall:

(a) Notify the transferee in writing of any financial relationships between the transferor and residents.

(b) Notify each resident or legal representative in writing where any financial relationship exists between the transferor and residents of the pending transfer.

(8) AUDIT. A CBRF handling residents' funds under this section is subject to an accounting audit as ordered by the department. The accounting audit shall be completed by a certified public accountant paid for by the CBRF.

SUBCHAPTER VII – RESIDENT CARE AND SERVICES

HFS 83.35 Assessment, individual service plan and evaluations. (1) ASSESSMENT. (a) *Scope.* The CBRF shall assess each resident's needs, abilities, and physical and mental condition before admitting the person to the CBRF, when there is a change in needs, abilities and condition, and at least annually. The assessment shall include all areas listed under par. (c). This requirement includes individuals receiving respite care in the CBRF. For emergency admissions the CBRF shall conduct the assessment within 5 days after admission.

(b) *Information gathering.* The CBRF shall base the assessment on the current diagnostic, medical and social history obtained from the person's health care providers, case manager and other service providers. Other service providers may include a psychiatrist, psychologist, licensed therapist, counselor, occupational therapist, physical therapist, pharmacist or registered nurse. The administrator or designee shall hold a face-to-face interview with the person and the person's legal representative, if any, and family members, as appropriate, to determine what the person views as his or her needs, abilities, interests, and expectations.

(c) *Areas of assessment.* The assessment, at a minimum, shall include all of the following areas applicable to the resident:

1. Physical health, including identification of chronic, short-term and recurring illnesses, oral health, physical disabilities, mobility status and the need for any restorative or rehabilitative care.

2. Medications the resident takes and the resident's ability to control and self-administer medications.

3. Presence and intensity of pain.

4. Nursing procedures the resident needs and the number of hours per week of nursing care the resident needs.

5. Mental and emotional health, including the resident's self-concept, motivation and attitudes, symptoms of mental illness and participation in treatment and programming.

6. Behavior patterns that are or may be harmful to the resident or other persons, including destruction of property.

7. Risks, including, choking, falling, and elopement.

8. Capacity for self-care, including the need for any personal care services, adaptive equipment or training.

9. Capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known.

10. Social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.

(d) *Assessment documentation.* The CBRF shall prepare a written report of the results of the assessment and shall retain the assessment in the resident's record.

(2) TEMPORARY SERVICE PLAN. Upon admission, the CBRF shall prepare and implement a written temporary service plan to meet the immediate needs of the resident, including persons admitted for respite care, until the individual service plan under sub. (3) is developed and implemented.

(3) COMPREHENSIVE INDIVIDUAL SERVICE PLAN. (a) *Scope*. Within 30 days after admission and based on the assessment under sub. (1), the CBRF shall develop a comprehensive individual service plan for each resident. The individual service plan shall include all of the following:

1. Identify the resident's needs and desired outcomes.

2. Identify the program services, frequency and approaches under s. HFS 83.38(1) the CBRF will provide.

3. Establish measurable goals with specific time limits for attainment.

4. Specify methods for delivering needed care and who is responsible for delivering the care.

(b) *Development.* The CBRF shall involve the resident and the resident's legal representative, as appropriate, in developing the individual service plan and the resident or the resident's legal representative shall sign the plan acknowledging their involvement in, understanding of and agreement with the plan. If a resident has a medical prognosis of terminal illness, a hospice program or home health care agency, as identified in s. HFS 83.38(2) shall, in cooperation with the CBRF, coordinate the development of the individual service plan and its approval under s. HFS 83.38 (2) (b). The resident's case manager, if any, and any health care providers, shall be invited to participate in the development of the service plan.

(c) *Implementation*. The CBRF shall implement and follow the individual service plan as written.

(d) *Individual service plan review.* Annually or when there is a change in a resident's needs, abilities or physical or mental condition, the individual service plan shall be reviewed and revised based on the assessment under sub. (1). All reviews of the individual service plan shall include input from the resident or legal representative, case manager, resident care staff, and other service providers as appropriate. The resident or resident's legal representative shall sign the individual service plan, acknowledging their involvement in, understanding of and agreement with the individual service plan.

(e) *Documentation of review.* The CBRF shall document any changes made as a result of the comprehensive individual service plan review.

(f) *Availability.* All employees who provide resident care and services shall have continual access to the resident's assessment and individual service plan.

(4) SATISFACTION EVALUATION. At least annually, the CBRF shall provide the resident and the resident's legal representative the opportunity to complete an evaluation of the resident's level of satisfaction with the CBRF's services. The evaluation shall be completed on either a department form or a form developed by the CBRF and approved by the department.

Note: The CBRF Resident Satisfaction Evaluation form can be found at http://dhs.wisconsin.gov/forms1/oqa/oqa2372.pdf or by contacting the Division of Quality Assurance Regional Office listed in Appendix A.

(5) EVALUATION OF RESIDENT EVACUATION LIMITATIONS. (a) *Initial evaluation.* The CBRF shall evaluate each resident within 3 days of the resident's admission to determine whether the resident is able to evacuate the CBRF within 2 minutes in an unsprinklered CBRF and 4 minutes in a sprinklered CBRF without any help or verbal or physical prompting, and what type of limitations that resident may have that prevent the resident from evacuating the CBRF within the applicable period of time. A form provided by the department shall be used for the evaluation. The resident's evaluation shall be retained in the resident's record.

Note: The Resident Evacuation Assessment form can be found at http://dhfs.wisconsin.gov/forms1/OQA/oqa2373.pdf or by contacting the Division of Quality Assurance Regional Office listed in Appendix A.

(b) *Evaluation update.* The CBRF shall evaluate each resident's mental or physical capability to respond to a fire alarm at least annually or when there is a change in the resident's mental or physical capability to respond to a fire alarm.

(c) *Notice to employees.* The CBRF shall notify each employee who works on the premises of the CBRF of each resident who needs more than 2 minutes to evacuate the CBRF and the type of assistance the resident needs to be evacuated.

HFS 83.36 Staffing requirements. (1) ADEQUATE STAFFING. (a) The CBRF shall provide employees in sufficient numbers on a 24-hour basis to meet the needs of the residents.

(b) The CBRF shall ensure all of the following:

1. An administrator or other designated qualified resident care staff in charge is on the premises of the CBRF daily to ensure the CBRF is providing safe and adequate care, treatment and services.

2. At least one qualified resident care staff is present in the CBRF when one or more residents are present in the CBRF.

3. At least one qualified resident care staff is on duty and awake if at least one resident in the CBRF is in need of supervision, intervention or services on a 24-hour basis to prevent, control or improve the resident's constant or intermittent mental or physical condition that may occur or may become critical at any time including residents who are at risk of elopement, who have dementia, who are self-abusive, who become agitated or emotionally upset or who have changing or unstable health conditions that require close monitoring.

4. At least one qualified resident care staff is on duty and awake if the evacuation capability of at least one resident is 4 minutes or more.

(c) When all of the residents are away from the CBRF, at least one qualified resident care staff shall be on call to provide coverage if a resident needs to return to the CBRF before the regularly scheduled return time. The CBRF shall provide each resident or the off-site location a means of contacting the resident care staff who is on call.

(2) STAFFING SCHEDULE. The CBRF shall maintain a current written schedule for staffing the CBRF. The schedule shall include each employee's full name, job assignment and time worked.

HFS 83.37 Medications. (1) GENERAL REQUIREMENTS. (a) *Practitioner's order*. There shall be a written practitioner's order in the resident's record for any prescription medication, over-the-counter medication or dietary supplements administered to a resident.

(b) *Medications.* Prescription medications shall come from a licensed pharmacy or a physician and shall have a label permanently attached to the outside of the container. Over-the-counter medications maintained in the manufacturer's container shall be labeled with the resident's name. Over-the-counter medications not maintained in the manufacturer's container shall be labeled by a pharmacist.

(c) *Packaging*. The CBRF shall develop and implement a policy that identifies the medication packaging system used by the CBRF. Any pharmacy selected by the resident whose medications are administered by CBRF employees shall meet the medication packaging system chosen by the CBRF. This does not apply to residents who self administer medications.

(d) *Documentation.* As required in s. HFS 83.42 (1) (m), when a resident is taking prescription or over-the-counter medications or dietary supplements, the resident's record shall include a current list of the type and dosage of medications or supplements, directions for use, and any change in the resident's condition.

(e) *Medication Regimen Review*. 1. If residents' medications are administered by a CBRF employee, the CBRF shall arrange for a pharmacist or a physician to review each resident's medication regimen. This review shall occur within 30 days before or 30 days after the resident's admission, whenever there is a significant change in medication, and at least every 12 months.

2. At least annually, the CBRF shall have a physician, pharmacist, or registered nurse conduct an on-site review of the CBRF's medication administration and medication storage systems.

3. The CBRF shall obtain a written report of findings under subds. 1. and 2., and address any irregularities for appropriate action. When the review is done by someone other than the prescribing practitioner, the prescribing practitioner shall receive a copy of the report when there are irregularities identified with the resident's medication regimen, which may need physician involvement to address.

(f*) More than one practitioner*. 1. When an employee of the CBRF administers a resident's medication, the CBRF shall provide a list of the resident's current medications to all practitioners. If this information is not provided before a prescription is written, the CBRF shall update the resident's primary practitioner or pharmacist before the administration of any new medication.

2. When a resident self administers medications, the CBRF shall provide a list of the resident's current medications for the resident to provide to all practitioners.

(g) *Disposition of medications.* 1. When a resident is discharged, the resident's medications shall be sent with the resident.

2. If a resident's medication has been changed or discontinued, the CBRF may retain a resident's medication for no more than 30 days unless an order by a physician or a request by a pharmacist is written every 30 days to retain the medication.

3. The CBRF shall develop and implement a policy for disposing unused, discontinued, outdated, or recalled medications in compliance with federal, state and local standards or laws. The CBRF shall arrange for the stored medications to be destroyed in compliance with standard practices. Medications that cannot be returned to the pharmacy shall be separated from other medication in current use in the facility and stored in a locked area, with access limited to the administrator or designee. The administrator or designee and one other employee shall witness, sign, and date the record of destruction. The record shall include the medication name, strength and amount.

(h) *Scheduled psychotropic medications*. When a psychotropic medication is prescribed for a resident, the CBRF shall do all of the following:

1. Ensure the resident is reassessed by a pharmacist, practitioner or registered nurse, as needed, but at least quarterly for the desired responses and possible side effects of the medication. The results of the assessments shall be documented in the resident's record as required under s. HFS 83.42(1)(n).

2. Ensure all resident care staff understands the potential benefits and side effects of the medication.

(i) *As needed (PRN) psychotropic medication*. When a psychotropic medication is prescribed on an as needed basis for a resident, the CBRF shall do all of the following:

1. The resident's individual service plan shall include the rationale for use and a detailed description of the behaviors which indicate the need for administration of PRN psychotropic medication.

2. The administrator or qualified designee shall monitor at least monthly for the inappropriate use of PRN psychotropic medication, including but not limited to, use contrary to the individual service plan, presence of significant adverse side effects, use for discipline or staff convenience, or contrary to the intended use.

3. Documentation in the resident's record shall include the rationale for use, description of behaviors requiring the PRN psychotropic medication, the effectiveness of the medication, the presence of any side effects, and monitoring for inappropriate use for each PRN psychotropic medication given.

(j*) Proof-of-use record.* The CBRF shall maintain a proof-of-use record for schedule II drugs, subject to 21 USC 812 (c), and Wisconsin's uniform controlled substances act, ch. 961, Stats**,** that contains the date and time administered, the resident's name, the practitioner's name, dose, signature

of the person administering the dose, and the remaining balance of the drug. The administrator or designee shall audit, sign and date the proof-of-use records on a daily basis.

(k) *Medication error or adverse reaction.* 1. The CBRF shall document in the resident's record any error in the administration of prescription or over-the-counter medication, known adverse drug reaction or resident refusal to take medication.

2. The CBRF shall report all errors in the administration of medication and any adverse drug reactions to a licensed practitioner, supervising nurse or pharmacist immediately. Unless otherwise directed by the prescribing practitioner, the CBRF shall report to the prescribing practitioner, supervising nurse or pharmacist as soon as possible after the resident refuses a medication for 2 consecutive days.

(L) *Medication information.* The CBRF shall make available written information to resident care staff on the purpose and side effects of medications taken by residents.

(2) MEDICATION ADMINISTRATION. (a) *Self-administered by resident*. 1. The resident shall self-administer prescribed and over-the-counter medications and dietary supplements, unless the resident has been found incompetent under ch. 54, Stats., or does not have the physical or mental capacity to self-administer as determined by the resident's physician, or the resident requests in writing that CBRF employees manage and administer medication.

2. Except as specified under sub. (4), when a resident self-administers medications, prescribed and over-the-counter medications and dietary supplements shall remain under the control of the resident. The CBRF shall provide a secure place for the storage of medications in the resident's room.

3. A resident with the mental and physical capacity to develop increased independence in medication administration shall receive self-administration instruction.

(b) *Medication administration supervised by a registered nurse, practitioner or pharmacist.* When medication administration is supervised by a registered nurse, practitioner or pharmacist, the CBRF shall ensure all of the following:

1. The registered nurse, practitioner or pharmacist coordinates, directs and inspects the administration of medications and the medication administration system.

2. The registered nurse, practitioner or pharmacist participates in the resident's assessment under s. HFS 83.35(1) and development and review of the individual service plan under s. HFS 83.35 (3) regarding the resident's medical condition and the goals of the medication regimen.

(c) *Medication administration not supervised by a registered nurse, practitioner or pharmacist.* When medication administration is not supervised by a registered nurse, practitioner or pharmacist, the CBRF shall arrange for a pharmacist to package and label a resident's prescription medications in unit dose. Medications available over-the-counter may be excluded from unit dose packaging requirements, unless the physician specifies unit dose.

(d) *Documentation of medication administration*. As required under s. HFS 83.42(1)(o), at the time of medication administration, the person administering the medication or treatment shall document in the resident record the name, dosage, date and time of medication taken or treatments performed

and initial the medication administration record. Any side effects observed by the employee or symptoms reported by the resident shall be documented. The need for any PRN medication and the resident's response shall be documented.

(e) *Other administration.* Injectables, nebulizers, stomal and enteral medications, and medications, treatments or preparations delivered vaginally or rectally shall be administered by a registered nurse or by a licensed practical nurse within the scope of their license. Medication administration described under sub. (2)(e) may be delegated to non-licensed employees pursuant to s. N 6.03(3).

(3) MEDICATION STORAGE. (a) *Original containers.* The CBRF shall keep medications in the original containers and not transfer medications to another container, unless the CBRF complies with all of the following:

1. Transfer of medications from the original container to another container shall be done by a practitioner, registered nurse, or pharmacist. Transfer of medication to another container may be delegated to other personnel by a practitioner, registered nurse or pharmacist.

2. If a medication is administered by CBRF employees and the medication is transferred from the original container by a registered nurse, or practitioner or other personnel who were delegated the task, the CBRF shall have a legible label on the new container that includes, at a minimum, the resident's name, medication name, dose and instructions for use. The CBRF shall maintain the original pharmacy container until the transferred medication is gone.

(b) *Unit dose packaging.* For use during unplanned or non-routine events or activities, employees who have completed medication administration training as required in s. HFS 83.20(2)(d) may transfer unit doses of medications into packages for the resident.

(c) *Administered by facility.* The CBRF shall keep medicine cabinets locked and the key available only to personnel identified by the CBRF.

(d) *Refrigeration.* Medications stored in a common refrigerator shall be properly labeled and stored in a locked box.

(e) *Proximity to chemicals.* The CBRF may not store prescription and over-the-counter medications or dietary supplements next to chemicals or other contaminants.

(f) *Internal and external application.* The CBRF shall physically separate medications for internal consumption from medications for external application.

(g) *Controlled substances*. The CBRF shall provide separately locked and securely fastened boxes or drawers or permanently fixed compartments within the locked medications area for storage of schedule II drugs subject to 21 USC 812 (c), and Wisconsin's uniform controlled substances act, ch. 961, Stats.

(4) EXEMPTIONS. Any CBRF that exclusively serves residents in the custody of a government correctional agency or who is alcohol or drug dependent is exempt from the requirements in sub. (2)(a)2. These facilities may store medications in a central, secure area and employees may observe and record the self administration of medication as described in the resident's individual service plan.

HFS 83.38 Program services. (1) SERVICES. As appropriate, the CBRF shall teach residents the necessary skills to achieve and maintain the resident's highest level of functioning. In addition to the assessed needs as determined under s. HFS 83.35(1), the CBRF shall provide or arrange services adequate to meet the needs of the residents in all of the following areas:

(a) *Personal care.* Personal care services shall be designed and provided to allow a resident to increase or maintain independence.

(b) *Supervision*. The CBRF shall provide supervision appropriate to the resident's needs.

(c) *Leisure time activities.* The CBRF shall provide a daily activity program to meet the interests and capabilities of the residents. Employees shall encourage and promote resident participation in the activity program. The CBRF shall develop and post the activity schedule in an area available to residents.

(d) *Community activities.* The CBRF shall provide information and assistance to facilitate participation in personal and community activities. The CBRF shall develop, update and make available to all residents, monthly schedules and notices of community activities, including costs.

(e) *Family and social contacts*. The CBRF shall encourage and assist residents in maintaining family and social contacts.

(f) *Communication skills.* The CBRF shall provide services to meet the resident's communication needs.

(g) *Health monitoring.* 1. The CBRF shall monitor the health of residents and make arrangements for physical health, oral health or mental health services unless otherwise arranged for by the resident. Each resident shall have an annual physical health examination completed by a physician, unless seen by a physician more frequently.

2. When indicated, a CBRF shall observe residents' food and fluid intake and acceptance of diet. The CBRF shall report significant deviations from normal food and fluid intake patterns to the resident's physician or dietician.

3. The CBRF shall document communication with the resident's physician and other health care providers, and shall record any changes in the resident's health or mental health status in the resident's record.

(h) *Medication administration.* The CBRF shall provide medication administration appropriate to the resident's needs.

(i) *Behavior management*. The CBRF shall provide services to manage resident's behaviors that may be harmful to themselves or others.

(j) *Information and referral*. The CBRF shall provide information and referral to appropriate community services.

(k) *Transportation.* The CBRF shall provide or arrange for transportation when needed for medical appointments, work, educational or training programs, religious services and for a reasonable

number of community activities of interest. CBRFs that transport residents shall develop and implement written policies addressing the safe and secure transportation of residents.

(2) TERMINALLY ILL RESIDENT SERVICES**.** (a) A CBRF may provide more than 3 hours of nursing care per week to a resident who has a terminal illness and who requires the care under the following conditions:

1. The resident's primary care provider is a licensed hospice or licensed home health agency.

2. The resident's primary care provider is not a licensed hospice or licensed home health agency, and the CBRF obtains a waiver from the department.

(b) When a resident who requires less than 3 hours of nursing care or the resident's legal representative waives the services of a hospice program or home health agency, the CBRF shall develop and implement the written plan of care required under par. (c), which the resident's primary physician shall review and approve.

(c) The primary care provider and the CBRF shall develop a written, coordinated plan of care before the initiation of palliative or supportive care.

HFS 83.39 Infection control program. (1) The licensee shall establish and follow an infection control program based on current standards of practice to prevent the development and transmission of communicable disease and infection.

(2) The infection control program shall include written policies and training for employees.

(3) Employees shall follow hand washing procedures according to centers for disease control and prevention standards.

(4) Other occupants shall comply with infection control requirements as stated in s. HFS 83.17(2).

(5) The CBRF shall ensure that pets are vaccinated against diseases, including rabies, if appropriate.

HFS 83.40 Oxygen storage. Oxygen storage shall be in an area that is well ventilated and safe from environmental hazards, tampering, or the chance of accidental damage to the valve stem. If oxygen cylinders are in use, oxygen cylinders shall be secured in an upright position. If stored upright, cylinders must be secured. If stored horizontally, cylinders shall be on a level surface where they will remain stationary.

HFS 83.41 Food service. **(1)** GENERAL REQUIREMENTS. (a) *Food supply.* 1. The CBRF shall maintain a food supply that is adequate to meet the needs of the residents.

2. Food shall be obtained from acceptable sources.

(b) *Equipment.* The CBRF shall store equipment and utensils in a clean manner and shall maintain all utensils and equipment in good repair.

(c) *Dishwashing*. 1. Whether washed by hand or mechanical means, all equipment and utensils shall be cleaned using separate steps for pre-washing, washing, rinsing and sanitizing. Residential dishwashers may be used in kitchens serving 20 or fewer residents. Kitchens serving 21 or more residents shall have a commercial type dishwasher for washing and sanitizing equipment and utensils in accordance with standard practices described in the Wisconsin food code.

2. A 3-compartment sink for washing, rinsing and sanitizing utensils, with drain boards at each end is required for all large facilities with a central kitchen. Washing, rinsing and sanitizing procedures shall be in accordance with standard practices described in the Wisconsin food code. In addition, a single compartment sink or overhead spray wash located adjacent to the soiled drain board is required for pre-washing.

(2) NUTRITION. (a) *Diets.* 1. The CBRF shall provide each resident with palatable food that meets the recommended dietary allowance based on current dietary guidelines for Americans and any special dietary needs of each resident.

2. The CBRF shall provide a therapeutic diet as ordered by a resident's physician.

Note: To obtain information on the Dietary Guidelines for Americans, see www.usda.gov/cnpp.

(b) *Meals*. 1. The CBRF shall provide meals that are routinely served family or restaurant style, unless contraindicated in a resident's individual service plan or for short-term medical needs.

2. The CBRF shall provide at least 3 meals a day, unless otherwise arranged according to the program statement or the resident's individual service plan. A nutritious snack shall be offered in the evening or more often as consistent with the resident's dietary needs.

3. If a resident is away from the CBRF during the time a meal is served, the CBRF shall offer food to the resident on the resident's return.

(c) *Menus.* 1. The CBRF shall make reasonable adjustments to the menu for individual resident's food likes, habits, customs, conditions and appetites.

2. The CBRF shall prepare weekly written menus and shall make menus available to residents. Deviations from the planned menu shall be documented on the menu.

(3) SANITATION AND SAFETY. (a*) Infection control.* 1. Each employee who prepares or serves food shall be free from open, infected wounds and from communicable disease and shall maintain clean and safe work habits.

2. The CBRF shall provide hand-washing facilities in the kitchen for use by food handlers. Use of a common towel is prohibited.

(b) *Food safety.* Whether food is prepared at the CBRF or off-site, the CBRF shall store, prepare, distribute and serve food under sanitary conditions for the prevention of food borne illnesses, including food prepared off-site, according to all of the following:

1. The CBRF shall refrigerate all foods requiring refrigeration at or below 40°F. Food shall be covered and stored in a sanitary manner.

2. The CBRF shall maintain freezing units at 0°F or below. Frozen foods shall be packaged, labeled and dated.

3. The CBRF shall hold hot foods at 140°F or above and shall hold cold foods at 40°F or below until serving.

(c) *Reporting.* The CBRF is required under s. HFS 145.04 to report suspected incidents of food borne disease to the local public health officer.

HFS 83.42 Resident records. (1) The CBRF shall maintain a record for each resident at the CBRF. Each record shall include all of the following:

(a) Resident's full name, sex, date of birth, admission date and last known address.

(b) Name, address and telephone number of designated contact person, and legal representative, if any.

(c) Medical, social, and, if any, psychiatric history.

(d) Current personal physician, if any.

(e) Results of the initial health screening under s. HFS 83.28(4) and subsequent health examinations under s. HFS 83.38(1)(g).

(f) Admission agreement.

(g) Documentation of significant incidents and illnesses, including the dates, times and circumstances.

(h) Assessments completed as required under s. HFS 83.35(1).

(i) Individual service plan and resident satisfaction evaluation.

(j) Documentation to accurately describe the resident's condition, significant changes in condition, changes in treatment and response to treatment.

(k) Results of the annual resident evacuation evaluation.

(L) Documentation of sensory impairment of the resident as required under s. HFS 83.48(7)(b).

(m) Summary of discharge information as required under s. HFS 83.31(7).

(n) Any department-approved resident-specific waiver, variance or approval.

(o) Physician's orders or other authorized practitioner's written orders for nursing care, medications, rehabilitation services and therapeutic diets.

(p) Current list of the type and dosage of medications or supplements.

(q) Results of the quarterly psychotropic medication assessments as required in s. HFS 83.37(1)(h)1.

(r) Documentation of administration of all medications, supplements, the person administering the medications or supplements, any side effects observed by the employee or symptoms reported by the resident, the need for PRN medications and the resident's response, refusal to take medication, omissions of medications, errors in the administration of medications and drug reactions.

(s) Photocopy of any court order or other document authorizing another person to speak or act on behalf of the resident, or other legal documents as required which affect the care and treatment of a resident.

(t) Documentation of all other services including rehabilitation services, treatments and therapeutic diets.

(u) Completed notice of pre-admission assessment requirement under s. HFS 83.30.

(v) Nursing care procedures and the amount of time spent each week by a registered nurse or licensed practical nurse in performing the nursing care procedures. Only time actually spent by the nurse with the resident may be included in the calculation of nursing care time.

(w) Plans of care for terminally ill residents.

(x) Date, time and circumstances of the resident's death, including the name of the person to whom the body is released.

(2) The licensee shall ensure all resident records are adequately safeguarded against destruction, loss or unauthorized access or use.

(3) The employee in charge on each work shift shall have a means to access resident records.

SUBCHAPTER VIII – PHYSICAL ENVIRONMENT

HFS 83.43 Furnishings and equipment. (1) ENVIRONMENT. The CBRF shall provide a living environment that is safe, clean, comfortable, and homelike. All common dining and living areas shall contain furnishings appropriate to the intended use of the room.

(2) BEDROOM FURNISHINGS. If a resident does not provide the resident's own bedroom furnishings, the CBRF shall provide all of the following:

(a) A bed of proper size to ensure the resident's comfort.

(b) A clean, comfortable mattress covered with a mattress pad and when necessary, waterproof covering.

(c) A clean, comfortable pillow, bedspread and blankets adequate for the season.

(d) Clean sheets, pillowcases, towels and washcloths adequate to meet the needs of the resident.

HFS 83.44 Housekeeping services. (1) LAUNDRY. (a) *Laundry area.* The CBRF shall make an adequate number of laundry appliances available to residents who choose to do their own laundry. The CBRF shall have a laundry area to sort, process and store clean and soiled laundry and shall handle clean and soiled laundry so as to prevent the spread of infection.

(b) *Storage and transport.* The CBRF shall have separate clean and dirty laundry storage areas or containers. Storage containers shall be clean, leak-proof and have a tight fitting lid. The CBRF may not transport, wash or rinse soiled laundry in areas used for food preparation, serving or storage.

(c) *Clothes dryers.* The CBRF shall enclose any clothes dryer having a rated capacity of more than 37,000 Btu/hour in a one-hour fire resistive rated enclosure. If the clothes dryer requires a vent, the CBRF shall use dryer vent tubing that is of rigid material with a fire rating that exceeds the temperature rating of the dryer. The dryer vent tubing shall be clean and maintained.

(2) CLEANLINESS. (a) The CBRF shall keep all rooms clean and shall make reasonable attempts to keep all rooms free from odors.

(b) All toilet and bathing areas, facilities and fixtures shall be clean and in good working order.

(c) Every interior floor, wall and ceiling shall be clean and in good repair.

HFS 83.45 Building maintenance and site. (1) MAINTENANCE. (a) *Exterior areas.* The CBRF shall maintain the yard, any fences, sidewalks, driveways and parking areas of the CBRF in good repair and free of hazards.

(b) *Building integrity.* The CBRF shall be structurally sound without visible evidence of structural failure or deterioration and shall be maintained in good repair.

(c) *Surface drainage.* The CBRF shall ensure that each courtyard, yard or other area on the premises of the CBRF is drained or graded to divert water away from the building.

(d) *Hazards.* The CBRF shall maintain each building in good repair and free of hazards.

(e) *Systems.* The CBRF shall maintain all electrical, mechanical, water supply, plumbing, fire protection and sewage disposal systems in a safe and functioning condition.

(f) *Furnishings.* The CBRF shall keep all furnishings clean, safe, and maintained in good repair.

(2) STORAGE. The CBRF shall maintain storage areas in a safe, dry and orderly condition.

(3) TOXIC SUBSTANCES. The CBRF shall ensure that cleaning compounds, polishes, insecticides and toxic substances are labeled and stored in a secure area.

(4) PEST CONTROL. The CBRF shall implement safe, effective procedures for control and extermination of insects, rodents and vermin.

(5) GARBAGE AND REFUSE. The CBRF shall dispose of garbage and refuse. Garbage and refuse in inside areas shall be kept in leak-proof, non-absorbent closed containers. Garbage and refuse in outside areas shall be in closed containers.

83.46 Building support systems. (1) HEATING. (a) A CBRF shall maintain comfortable and safe temperatures. The CBRF shall provide tempered air at all times to eliminate cold air drafts. The heating system shall be capable of maintaining temperatures of 74º F. in areas occupied by residents.

(b) The use of portable space heaters is prohibited except for Underwriters Laboratories listed electric heating equipment that is listed for permanent attachment to the wall. Portable space heaters shall have an automatic thermostatic control and shall be physically attached to a wall.

(c) The CBRF shall maintain the heating system in a safe and properly functioning condition. The CBRF shall ensure that a heating contractor or local utility company completes all of the following maintenance and makes available to the facility documentation of the maintenance performed:

1. An oil furnace shall be serviced at least once each year.

2. A gas furnace shall be serviced at least once every 3 years.

3. The CBRF shall have a chimney inspected at intervals corresponding with the heating system service under subd. 1. or 2.

(d) The CBRF may not use a fuel-fired heater on the premises of the CBRF unless the heater is properly vented to the outside.

(e) Any wood burning stove or fireplace shall have a flue separate from the flue used by a gas or oil fired furnace or boiler. The entire installation shall meet the requirements in NFPA 211. The CBRF shall have the wood burning or fireplace flue cleaned as often as necessary, but at least 2 times during each heating season. The CBRF shall make available documentation of the maintenance performed.

(f) Combustible materials shall not be placed within 3 feet of any furnace, boiler, water heater, fireplace or other similar equipment.

(g) The CBRF shall enclose any other open flame combustible fuel-burning device within a one hour fire rated assembly when sharing a common floor with a habitable room. A direct-vent appliance is exempt from this requirement.

(2) VENTILATION. (a) All rooms and areas shall be well ventilated. Ventilation is not required in a refrigerated storage room.

(b) A CBRF may not have transoms, transfer grills or louvers in bedroom walls or doors opening directly to a corridor.

(3) PUBLIC WATER SUPPLY. The CBRF shall use a public water supply when available. If a public water supply is not available, the CBRF shall have a well that is approved by the state department of natural resources. The CBRF shall have the well water tested at least annually by the state laboratory of hygiene or other laboratory approved under ch. HFS 165. The CBRF shall maintain documentation of annual testing results.

(4) ELECTRICAL**.** (a) *Installation and maintenance.* The CBRF shall be supplied with electrical service, wiring, outlets and fixtures, which shall be properly installed and maintained in good and safe working condition.

(b) *Service size.* The electrical service shall be of the proper size to handle the connected load.

(c) *Protection.* 1. 'Fuses and circuit breakers.' Tamper-proof fuses or circuit breakers not to exceed the ampere capacity of the smallest wire size in the circuit shall protect the branch circuits.

2. 'Ground fault interruption*.'* Ground fault interrupt protection shall be required for all outlets within 6 feet of a plumbing fixture, all outlets on the exterior of the CBRF and in the garage.

(d) *Minimum number of fixtures and outlets.* The CBRF shall have all of the following minimum number of fixtures and outlets:

1. 'Light fixtures*'.* Every resident bedroom, bathroom, kitchen or kitchenette, dining room, laundry room and furnace room shall contain at least one approved or listed ceiling or wall-type electric light fixture equipped with sufficient lamps or tubes to provide at least 5 foot candles at floor level at the center of room. Where more than one fixture is used or required, the additional fixture or fixtures shall be equally spaced as far as is practical. A switched outlet may be substituted for a ceiling or wall fixture in resident bedrooms and dining rooms.

2. 'Minimum outlet ratios.' Electric duplex outlet receptacles shall be provided as follows:

a. Living room, dining room and bedroom, one per 75 square feet of floor area with a minimum of 2.

b. Kitchen, one per 8 lineal feet or fraction thereof, of countertop and preparation area, including island-type areas. In addition, if a kitchen is used for dining purposes, one per 75 square feet of floor area. Separate outlets shall be provided for refrigerators.

c. Laundry room, minimum of one.

d. Toilet rooms, one, which may be part of the wall fixture if 72 inches or less from the floor.

e. Other habitable rooms, minimum of 2.

(e) O*utlets.* Electrical outlets shall be located to limit the use of extension cords. Extension cords shall not be used in lieu of permanent wiring.

(f) *Switches*. Switches or equivalent devices for turning on at least one light in each room or passageway shall be located to conveniently control the lighting in the area.

(g) *Temporary and exposed wiring*. All temporary wiring and exposed wiring, whether in use or abandoned, shall be removed.

SUBCHAPTER IX - SAFETY

HFS 83.47 Fire safety requirements. (1) EVACUATION CAPABILITIES. (a) If the time it takes for any resident to evacuate is more than 2 minutes and up to 4 minutes, with or without employee assistance, the CBRF shall have all of the following:

1. Vertical smoke separation between all floors.

2. Rated stair enclosure as required under s. Comm 61.

3. Externally monitored smoke detection system with back up battery supply as required under s. HFS 83.49(2)(e), unless the CBRF is equipped with a sprinkler system as required under s. HFS 83.48(8).

(b) If a resident has an evacuation time of 4 or more minutes, with or without employee assistance, the CBRF shall have all of the following:

1. Sprinkler system as required under s. HFS 83.48(8).

2. Vertical smoke separation between all floors.

3. Rated stair enclosure as required under s. Comm 61.

4. Twenty-four hour awake qualified resident care staff.

(c) If a resident cannot be safely evacuated from their bedroom as determined by the CBRF's assessment, the CBRF shall instruct the resident to remain in the resident's bedroom and the CBRF shall meet all of the following requirements:

1. Be sprinklered as required under s. HFS 83.48(8).

2. Notify the local fire department and identify the specific residents using point of rescue, and provide an up-to-date floor plan identifying where those resident rooms are located.

3. Have vertical smoke separation between all floors.

4. Have 24 hour awake qualified resident care staff.

(2) EMERGENCY AND DISASTER PLAN. (a) *Written plan.* The CBRF shall have a written plan for responding to emergencies and disasters that is readily available to all employees. The plan shall specify the responsibilities of employees. The plan shall include all of the following:

1. Procedures for orderly evacuation or other department-approved response during an emergency or disaster. The plan shall include procedures for any resident who refuses to follow evacuation or emergency procedures.

2. The CBRF's response to serious illness or accidents.

3. Procedures to follow when a resident is missing.

4. The CBRF's preparation for and response to severe weather including tornado and flooding.

5. A route to dry land when the CBRF is located in a flood plain.

6. Location of an emergency shelter for the residents.

7. A means of transporting residents to the emergency shelter.

8. How meals and medications will be provided to residents at the emergency shelter.

(b) *Exit diagram.* The disaster plan shall have an exit diagram that shall be posted on each floor of the CBRF used by residents in a conspicuous place where it can be seen by the residents. The diagram shall identify the exit routes from the floor, including internal horizontal exits under par. (f) when applicable, smoke compartments or a designated meeting place outside and away from the building when evacuation to the outside is the planned response to a fire alarm.

(c) *Emergency and disaster procedures.* Fire, tornado, flooding or other emergency or disaster procedures shall be clearly communicated to a new resident within 72 hours after admission.

(d) *Fire drills.* 1. Fire evacuation drills shall be conducted at least quarterly with both employees and residents. Drills shall be limited to the employees scheduled to work at that time. Documentation shall include the date and time of the drill and the CBRF's total evacuation time. The CBRF shall record residents having an evacuation time greater than the time allowed under s. HFS 83.35(5) and the type of assistance needed for evacuation. Fire evacuation drills may be announced in advance.

2. At least one fire evacuation drill shall be held annually that simulates the conditions during usual sleeping hours. Fire evacuation drills may be announced in advance. Drills shall be limited to the employees scheduled to work during the residents' normal sleeping hours.

(e) *Other evacuation drills*. Tornado, flooding, or other emergency or disaster evacuation drills shall be conducted at least semi-annually.

(f) *Horizontal evacuation.* The CBRF shall have approval from the department before including horizontal evacuation in the emergency and disaster plan. CBRFs using horizontal evacuation shall document the total evacuation time of the fire zone evacuated.

(g) *Use of area of refuge.* The local fire department shall be made aware of the areas of refuge, if any, and the potential number of residents who would use the areas of refuge. Evacuation procedures involving fire department personnel shall be conducted at the option of the fire department. CBRFs using areas of refuge shall comply with construction requirements under s. HFS 83.51.

(h) *Posting of emergency phone numbers.* The phone numbers for emergency services shall be posted near phones used by CBRF employees.

(3) FIRE INSPECTION. The CBRF shall arrange for an annual inspection by the local fire authority or certified fire inspector and shall retain fire inspection reports for 2 years.

(4) FIRE EXTINGUISHER. (a) At least one portable dry chemical fire extinguisher with a minimum 2A, 10-B-C rating shall be provided on each floor of the CBRF. All fire extinguishers shall be maintained in readily usable condition. Inspections of the fire extinguisher shall be done by a qualified professional one year after initial purchase and annually thereafter. Each fire extinguisher shall be provided with a tag documenting the date of inspection.

(b) A fire extinguisher shall be mounted on a wall or a post or in an unlocked wall cabinet used exclusively for that purpose. Fire extinguishers shall be clearly visible. The route to the fire extinguisher shall be unobstructed and the top of the fire extinguisher shall not be over 5 feet high. The extinguisher shall not be tied down, locked in a cabinet or placed in a closet or on the floor. Fire extinguishers on upper floors shall be located at the top of each stairway. Extinguishers shall be located so the travel distance between extinguishers does not exceed 75 feet. The extinguisher on the kitchen floor level shall be mounted in or near the kitchen.

(5) SMOKING. Each CBRF shall develop and implement a written policy on smoking. The policy shall designate areas where smoking is permitted, if any, and shall be clearly communicated to residents. Designated smoking areas shall be well ventilated or have an alternate means of eliminating smoke.

HFS 83.48 Fire protection systems. (1) INTERCONNECTED SMOKE AND HEAT DETECTION SYSTEM. (a) Except as provided under sub. (2), the CBRF shall have an interconnected smoke detection system pursuant to s. 50.035(2) Stats., and shall have an interconnected heat detection system to protect the entire CBRF so that if any detector is activated, an alarm audible throughout the building will be triggered.

(b) Smoke and heat detectors shall be installed and maintained in accordance with NFPA 72 National Fire Alarm Code and the manufacturer's recommendation. Smoke detectors powered by the CBRF's electrical system shall be tested by CBRF personnel according to manufacturer's recommendation, but not less than once every other month. CBRFs shall maintain documentation of tests and maintenance of the detection system.

(c) A CBRF shall receive approval from the department as required under s. 50.035 (2) (b), Stats., and s. HFS 83.63(2) before installing a smoke and heat detection system.

(2) RADIO-TRANSMITTING SMOKE AND HEAT DETECTION SYSTEM. A small CBRF may use an Underwriters Laboratories listed radio-transmitting detection system that triggers an alarm audible throughout the building and that is properly safeguarded against deactivation.

(3) TESTING. (a) After the first year following installation, fire detection systems shall be inspected, cleaned and tested annually by certified or trained and qualified personnel in accordance with the specifications in NFPA 72 and the manufacturer's specifications and procedures.

(b) Sensitivity testing shall be performed at intervals in accordance with NFPA 72.

(c) All smoke and heat detectors suspected of exposure to a fire condition shall be inspected, cleaned and tested by a certified or trained and qualified person within 5 days after each exposure in

accordance with the specifications in NFPA 72 and the manufacturer's specifications and procedures. Each detector shall operate within the manufacturer's intended response or it shall be replaced within 10 days after exposure to a fire condition.

(4) LOCATION. Pursuant to s. 50.035(2)(b), Stats., all facilities shall have at least one smoke detector located at each of the following locations:

(a) At the top of every open stairway.

(b) On the hallway side of every enclosed stairway on each floor level.

(c) Spaced not more than 30 feet apart in every corridor, and not further than 15 feet from any wall or in accordance with the manufacturer's separation specifications.

(d) In each common use room, including a living room, dining room, family room, lounge and recreation room, but excluding a kitchen, bathroom or laundry room.

(e) In each bedroom.

(f) In all non-resident living areas, except the furnace, bathroom, kitchen and laundry room.

(g) Additional smoke detectors shall be located where wall projections from the ceiling or lintels exceed 8 inches.

(h) In the basement, or in each room of the basement except a furnace or laundry room.

(5) CONNECTION AND ACTIVATION. Smoke detectors in or near the living room of an apartment and smoke detectors in the bedrooms of an apartment shall be either connected to the main alarm system or to a separate annunciator on a panel. If a separate annunciator on a panel is used, there shall be an effective electronic means of notifying employees anywhere in the CBRF that a detector has been activated. Smoke detectors under this subsection shall activate an alarm in all of the resident bedrooms and the apartment.

(6) SPECIFIC LOCATIONS FOR HEAT DETECTORS. CBRFs shall have at least one heat detector integrated with the smoke detection system at all of the following locations or in accordance with the heat detector manufacturer's specifications:

(a) Kitchen.

(b) Attached garage.

(c) All enclosed compartments of the attic.

(d) Furnace room.

(e) Laundry room.

(7) SPECIAL EQUIPMENT FOR PERSONS WITH IMPAIRED HEARING OR VISION. (a) *Notification.* If any resident with impaired hearing or vision is unable to detect or respond to a fire

emergency, the licensee shall ensure the appropriate audio, visual or vibrating notification alarms are installed in the resident's bedroom, in or near a living room in an apartment, and in each common area used by the resident.

(b) *Documentation.* The sensory impairment of the resident shall be noted in the resident's record and communicated to all employees within 3 days after admission or after determination of the impairment is made.

(8) SPRINKLER SYSTEMS. (a) *Types*. A CBRF shall have a sprinkler system if required under ss. HFS 83.47(1)(b) or 83.50. The types of sprinkler systems to be used are as follows:

1. A complete NFPA 13D residential sprinkler system shall be used in a CBRF licensed for 16 or fewer residents only when each room or compartment in the CBRF requires no more than 2 sprinkler heads. When an NFPA 13D sprinkler system is used it shall have a 30-minute water supply for at least 2 sprinkler heads. Entrance foyers shall have sprinklers. The department may determine an NFPA 13R residential sprinkler system shall be installed in a CBRF with one or more rooms or compartments having an unusually high ceiling, a vaulted ceiling, a ceiling with exposed beams or other design or construction features that inhibit proper water discharge when the square footage of each room or compartment in the CBRF would ordinarily allow an NFPA 13D sprinkler system.

2. A complete NFPA 13R residential sprinkler system shall be used in a CBRF licensed for 16 or fewer residents when one or more rooms or compartments in the CBRF require more than 2 sprinkler heads and not more than 4 sprinkler heads. A fire department connection is not required for an NFPA 13R sprinkler system.

3. A complete NFPA 13 automatic sprinkler system shall be used in a CBRF licensed for more than 16 residents.

4. All sprinkler systems under subds. 1. to 3. installed after January 1, 1997 shall be equipped with residential sprinkler heads in all bedrooms, apartments, all other habitable rooms and corridors.

5. All large facilities initially licensed on or after January 1, 1997 shall be protected by a complete automatic sprinkler system, except a class AA CBRF that has an equivalent safety system approved by the department.

6. All large facilities initially licensed before January 1, 1997 of non-fire resistive construction shall be protected by a complete automatic sprinkler system, except a class AA CBRF that has an equivalent safety system approved by the department.

(b) *Installation and maintenance*. 1. All sprinkler systems shall be installed by a state licensed sprinkler contractor. All sprinkler systems shall be maintained, inspected and tested at least annually or at intervals determined by the requirements in NFPA 25.

2. In facilities with sprinklers, sprinkler heads shall be placed at the top of each linen or trash chute and in the rooms where the chutes terminates.

3. The sprinkler system flow alarm shall be connected to the CBRF's fire alarm system.

(c) *Reliable water supply.* All sprinkler systems shall have a reliable water supply. If the sprinkler system requires a mechanical device such as a compressor, pump or motor, the device shall be supplied by a reliable source of emergency power in accordance with NFPA 20.

HFS 83.49 Alternative requirements to a sprinkler system in a small class C CBRF. (1) 5-YEAR DELAY. Existing small class CA, small class CS and small class CNA CBRFs using the exemption under sub. (2) shall have a complete sprinkler system as required under s. HFS 83.48(8) within 5 years of the effective date of this section ….[revisor inserts date].

(2) GENERAL REQUIREMENTS. Small class CA, small class CS and small class CNA facilities constructed and licensed before the effective date of this section…. [revisor inserts date] are exempt from the sprinkler system requirement under s. HFS 83.48(8) if all of the following requirements are met:

(a) No more than 4 residents require a class CA, class CS or class CNA CBRF.

(b) The bedroom and congregate dining and living area for any resident requiring a class CA, class CS or class CNA who is blind or not fully ambulatory shall be on the first floor. CBRFs serving one or more non-ambulatory residents shall have 2 accessible exits to grade.

(c) The CBRF is not located in a building which has more than 2 living units or has more than 2 stories.

(d) The requirements for a smoke and heat detection system under s. HFS 83.48(1) to (7) are met.

(e) The smoke detection system has a backup battery power supply and is externally monitored so activation of the system automatically results in notification of the local fire department. Tape or voice type dialers are prohibited. Acceptable configurations for external monitoring are limited to any of the following:

1. A digital communicator linked to a listed monitoring company.

2. A digital communicator linked to the municipal or county emergency dispatch center or to the local fire department.

3. A direct phone line connecting the detection system to the municipal or county emergency dispatch center or to the local fire department.

(f) There is smoke separation between each floor level to prevent vertical movement of smoke.

(g) The emergency and disaster plan under s. HFS 83.47(2)(a) specifies evacuation of residents as the response to a fire. Horizontal evacuation, use of area of refuge or use of point of rescue is prohibited. No resident may have an evacuation time, as determined under s. HFS 83.35(5) that exceeds 2 minutes.

HFS 83.50 Minimum type of construction. (1) APPLICATION OF HABITABLE FLOOR DEFINITION. The number of habitable floors in a CBRF shall determine the type of construction for

each class of licensure and when an automatic sprinkler system, combined with a smoke detection system, may substitute for the required type of construction.

(2) MINIMUM TYPE OF CONSTRUCTION FOR EACH CLASS OF LICENSURE. (a) A CBRF with 3 or fewer habitable floors shall meet the construction requirements for class of licensure in Table HFS 83.50 and as specified under 1. to 3.

1. Construction Type IB means fire-resistive construction consisting of exterior walls of concrete or masonry, floors and roof of fireproofed steel or concrete and interior partitions of concrete block or steel studs.

2. Construction Type IIA means metal frame protected construction consisting of structural parts and enclosing walls of masonry in combination with other noncombustible material.

3. Construction Type VB means wood frame unprotected construction consisting of exterior walls of wood studs covered with metal or wood siding, brick, stone, slate, wood floors and roof, and interior partitions of wood stud and plaster or drywall.

Table HFS 83.50

MINIMUM TYPE OF CONSTRUCTION BY CLASS OF LICENSURE FOR FACILITIES WITH 3 OR FEWER HABITABLE FLOORS

Number of Habitable Floors	Class of Licensure				
	AA	AS, ANA		CA, CS, CNA	
	Construction Type	Construction Type Non-Sprinklered	Sprinklered	Construction Type Non-Sprinklered	Sprinklered
1	VB	VB	VB	IIA	VB
2	VB	VB	VB	IB	VB
3	VB	IB	IIA	IB	IIA

Note: For information regarding types of construction see s. Comm 61.

(b) For class AS and class ANA facilities, the bedrooms and congregate dining and living area for blind, non-ambulatory, semi-ambulatory or physically disabled residents shall be on the first floor.

(c) A CBRF of any type of construction initially licensed for a class CA, class CS or class CNA occupancy on or after January 1, 1997 shall have a sprinkler system under s. HFS 83.48(8), except as provided under s. HFS 83.49(2).

(d) The third floor of a 3 story unprotected wood frame building may not be used for sleeping, eating, cooking or as habitable rooms, unless the building is protected by a complete automatic

sprinkler system in accordance with NFPA 13, except that storage or office space for the licensee or employees may be located on that floor.

(e) Any CBRF that meets the requirement of type IB construction in Table HFS 83.50 and is not protected by a sprinkler system shall have either an area of refuge under s. HFS 83.51 or be approved by the department for horizontal evacuation under s. HFS 83.59(1)(b) on each floor without 2 grade level or ramped exits when residents not capable of negotiating stairs without assistance reside on the floor.

(f) A CBRF located in a building of more than 3 stories shall be in compliance with requirements found in s. Comm 61 and shall be equipped with a complete automatic sprinkler system under NFPA 13.

HFS 83.51 Area of refuge. (1) A room to be used as an area of refuge may not be a bedroom or a room for the private use of any resident, other occupant, employee, or licensee.

(2) The area of refuge shall be constructed of fire resistive construction rated for at least one-hour rated fire resistive construction. Whenever the room exits into an enclosed stairwell that is required to be of more than one-hour fire resistive construction, the room shall have the same fire-resistive construction, including the same doorway protection, as required for the adjacent stairwell.

(3) Doors in the area of refuge shall be tight-fitting and smoke and draft control assemblies having a fire-protection rating of at least 45 minutes and shall be self-closing or automatic closing.

(a) A room to be used as an area of refuge shall have an exit door directly to an exit enclosure such as a stairwell or fire escape that leads directly outside.

(b) The door leading into the area of refuge from the residential area shall be unlocked at all times. The door between the area of refuge and an exit enclosure shall be equipped with hardware that unlocks and opens with one hand and one motion from the area of refuge side of the door.

(4) Each stairway adjacent to an area of refuge shall have a minimum clear horizontal width of 4 feet between handrails.

(5) Two-way communication from the area of refuge and identification of the area of refuge shall be provided.

(6) Each area of refuge shall have a space for each person needing the area of refuge in an emergency as follows:

(a) At least 30 by 48 inches for each person who uses a wheelchair for mobility.

(b) At least 30 by 36 inches for each person who uses a walker, cane or crutch for assistance in walking.

(c) At least 30 by 24 inches for each person who does not use any assistive device for mobility or walking.

(7) The measurements under sub. (6) shall be determined after deducting the space covered by the door swing if the swing is into the area of refuge and the space needed for a passageway through the area of refuge is at least 32 inches in width.

(8) The number of residents not able to negotiate stairs who are housed on each floor level required to have an area of refuge shall be limited to the number of spaces provided in the area of refuge on that floor.

(9) A CBRF with an area of refuge shall notify the local fire department of the emergency evacuation plan, including the use and location of each area of refuge, and the potential number of residents and employees who would use each area of refuge.

SUBCHAPTER X – BUILDING DESIGN

HFS 83.52 Common dining and living space. (1) SPACE PER RESIDENT. (a) The minimum common dining and living space shall be 60 square feet per ambulatory or semi-ambulatory resident or other occupant, and 90 square feet per non-ambulatory resident or other occupant.

(b) For each resident apartment, the CBRF may apply 25% of the total floor space of the habitable rooms in the apartment, not including bedroom or bathroom floor space, toward the required congregate dining and living area requirement under par. (a), but may not exceed 30 square feet per resident.

(c) Egress paths through common-use areas may not be counted in the common space calculation.

(d) Common dining space shall be large enough to accommodate all residents in no more than 2 shifts.

(2) ACCESS. Common dining and living space shall be internally accessible to all residents.

(3) RECREATIONAL SPACE. The CBRF shall designate adequate space and equipment to meet the needs of the residents for social and recreational activities.

(4) CEILING HEIGHT. All common-use rooms shall have a ceiling height of at least 7 feet.

HFS 83.53 Storage areas. The CBRF shall have adequate storage space for resident care supplies and equipment.

HFS 83.54 Resident bedrooms. (1*)* DESIGN. (a) Bedrooms shall be designed and equipped to allow residents to achieve the highest level of independent functioning and shall be fully accessible to the resident.

(b) Floor to ceiling walls with rigid construction swing-type doors that are of the side-hinged or pivoted swinging shall enclose resident bedrooms.

(c) Bedrooms shall open directly into a corridor, the resident's private living area or common living space.

(d) Each resident shall have or be provided within the bedroom, a closet or wardrobe with clothes hanging rods and shelves, and drawer space adequate to reasonably meet the needs of the resident. The bedroom shall have adequate accessible space for a resident's wheelchair or other adaptive or prosthetic equipment.

(e) Each resident bedroom shall have a ceiling height of at least 7 feet.

(2) LOCATION. Resident bedrooms shall be located near toilet and bathing facilities and shall provide internal access to congregate dining and living areas.

(3) CAPACITY. (a) Resident bedrooms shall accommodate no more than 2 residents per room.

(b) Facilities exclusively serving residents in the custody of a government correctional agency or who is alcohol or drug dependent may accommodate up to 3 residents per room if the facility was licensed before the effective date of this section…. [revisor inserts date].

(4) SIZE. (a) In existing class AA and class CA CBRFs, single occupancy bedrooms shall have a minimum of 80 square feet per resident and 60 square feet per resident in multiple occupancy bedrooms. Minimum square footage shall be calculated exclusive of toilet rooms and closets.

(b) In existing class AS, class CS, class ANA and class CNA CBRFs, and all newly constructed CBRFs, single occupancy bedrooms shall have a minimum of 100 square feet per resident and 80 square feet per resident in multiple occupancy bedrooms. Minimum square footage shall be calculated exclusive of toilet rooms and closets.

(c) A bedroom shared by residents who require different classes of licensure shall meet the highest applicable square footage required for all residents sharing the bedroom.

(5) BASEMENT BEDROOMS. Basement bedrooms shall have at least 2 means of exiting that provide unobstructed egress to the outside or grade level. Windows in the basement shall not be considered exits.

(6) BED ARRANGEMENTS. The CBRF shall locate beds either the minimum distance from heat producing sources recommended by the manufacturer or 18 inches. The CBRF shall have a deflector on the register when the bed is located less than 18 inches from a forced air register. Beds may not block a forced air register.

HFS 83.55 Bath and toilet areas. (1) NUMBER. (a) The CBRF shall provide at least one toilet, one sink and one bath or shower for every 10 residents and other occupants or fraction thereof.

(b) Grab bars shall be provided at toilet and bath fixtures as necessary to meet the needs of the residents. Grab bars shall meet requirements as specified in s. Comm 61.

(c) When fixtures are accessed only through a bedroom, the fixtures may only be counted as meeting the requirement for the occupants of that bedroom.

(2) LOCATION. Toilet rooms and bathing areas shall be accessible and available to residents on each floor in class AS, class ANA, class CS and class CNA facilities.

(3) HAND DRYING. All sink areas shall have dispensers for single use paper towels, cloth towel dispensing units that are enclosed for protection against being soiled or electric hand dryers. This requirement does not apply to sink areas located in toilet rooms accessed directly from a resident bedroom.

(4) PRIVACY. (a) Bath and toilet rooms shall have door locks to ensure privacy, except where the toilet, bath or shower room is accessed only from a resident room that is occupied by one person. All door locks shall be operable from both sides.

(b) All toilet and bathing areas shall have floor to ceiling walls and door assembly.

(5) ELECTRICAL FIXTURES. Bath and toilet rooms shall have at least one electrical fixture to provide artificial light and one electrical duplex outlet receptacle.

(6) WATER SUPPLY. (a) The CBRF shall connect each sink, bathtub and shower to hot and cold water, and supply adequate hot water to meet the needs of the residents.

(b) The CBRF shall set the temperature of all water heaters connected to sinks, showers and tubs used by residents at a temperature of at least 140°F. The temperature of water at fixtures used by residents shall be automatically regulated by valves and may not exceed 115°F, except for CBRFs serving residents recovering from alcohol or drug dependency or clients of a government correctional agency.

(c) The fixtures at sinks used by residents shall be the single nozzle, lever-handled mixing type fixtures or the single nozzle, 2 handled mixing type fixtures which are easy for all residents to control.

HFS 83.56 Day care. If there is a day care program in the same building as a CBRF, the facilities shall be separated. Entrance and exit doors for each facility shall be separate. Socialization between facilities shall not interfere with privacy or infringe upon the use of habitable floor space of CBRF residents.

HFS 83.57 Multiple occupancies. (1) PHYSICAL SEPARATION. (a) A CBRF located in the same building as a nursing home or hospital shall be a distinct living area and shall be separated between the 2 occupancies by a minimum of a 2 hour fire rated construction or all parts of each distinct living area shall meet the higher fire protection standards.

(b) A CBRF located in the same building as a residential care apartment complex or other residential occupancy shall be a distinct living area and shall be separated between the 2 occupancies by at least a one hour fire rated construction. The entire building shall be equipped with an interconnected smoke and heat detection system and sprinkler system in compliance with s. HFS 83.48. The CBRF shall maintain documentation for all testing and maintenance of the detection system in both the CBRF and the non-CBRF.

(c) A small CBRF located in one living unit of a duplex shall be a distinct living area and shall be separated between the 2 occupancies by at least a one hour fire rated construction. The entire building shall be equipped with an interconnected smoke and heat detection system and sprinkler

system in compliance with s. HFS 83.48. The CBRF shall maintain documentation for all testing and maintenance of the detection system in both the CBRF and the non-CBRF.

(d) If a common lobby and access area of a multiple occupancy building is not provided, the CBRF shall have separate entrance and exit doors.

(2) COMMON USE AREAS. If CBRF residents and other occupants are intermixed and the total building is available to CBRF residents and other occupants, the common dining and living space shall be determined by the total capacity of the building as described under s. HFS 83.52(1)(a). If CBRF residents and other occupants are not intermixed, the facility shall provide common living and dining space as described in s. HFS 83.52(1)(a) for the use of the CBRF residents.

HFS 83.58 Garages and utility buildings. (1) ATTACHED GARAGE. (a) Common walls between a CBRF and an attached garage shall be protected with at least one layer of 5/8-inch type X gypsum board with taped joints on the garage side and with at least one layer of ½-inch gypsum board with taped joints, or equivalent, on the CBRF side. The walls shall provide a complete separation.

(b) Floor-ceiling assemblies between a garage and the CBRF shall be protected with at least one layer of 5/8-inch type X gypsum board on the garage side of the ceiling or room framing.

(c) A self-closing 1-3/4-inch solid core wood door or an equivalent self-closing fire-resistive rated door shall protect openings between an attached garage and the CBRF.

(d) When a required exit leads into a garage, the garage shall have at least a 32 inch service door to the outside.

(2) DETACHED GARAGES. A detached garage shall either be located at least 3 feet from the CBRF or shall comply with the requirements for attached garages under sub. (1).

(3) UTILITY BUILDINGS. A utility building where fueled, motorized vehicles and appliances such as snowmobiles, power lawn mowers, motorcycles, and snow blowers are stored shall be located at least of 3 feet from the CBRF or comply with the requirements for attached garages under sub. (1).

HFS 83.59 Exits and passageways. In this section, “exit” means standard exit doors opening to passageways or grade, exit passageways, fire escapes, and stairways as specified in s. Comm 61.

(1) EXITS. All habitable floors shall have at least 2 exits providing unobstructed travel to the outside. Small class AA CBRFs licensed on or before the effective date of this section…. [revisor inserts date] with no more than 2 habitable floors may have one exit from the second floor.

(a) Class AS, class ANA, class CS and class CNA CBRFs shall have at least 2 grade level or ramped exits to grade.

(b) A CBRF may use horizontal evacuation as defined under s. Comm 61. The CBRF shall have approval from the department before including horizontal evacuation in the emergency and disaster plan under s. HFS 83.47 (2).

(c) Exit doors and doors in exit passageways shall have a clear opening of at least 32 inches in width and 76 inches in height.

(d) Exit passageways, stairways and doors in class AA facilities shall be at least 30 inches clear opening in width. Class AA facilities licensed on or before the effective date of this section…. [revisor inserts date] shall have a minimum width of 28 inches clear opening for existing passageways, stairways and doors.

(e) No exit passageway may be through areas such as a resident room, bath or toilet room, closet or furnace rooms.

(f) Exit passageways and stairways to outside exits shall be at least 36 inches in width and maintained clear and unobstructed at all times. Exit passageways and stairways to outside exits shall be at least 32 inches in width in facilities licensed on or before the effective date of this section…. [revisor inserts date]. In existing large facilities, the minimum corridor width shall be at least 4 feet.

(g) Exits, sidewalks and driveways used for exiting shall be kept free of ice, snow, and obstructions. For facilities serving only ambulatory residents, the CBRF shall maintain a cleared pathway from all exterior doors to be used in an emergency to a public way or safe distance away from the building. For facilities serving semi-ambulatory and non-ambulatory residents, a CBRF shall maintain a cleared, hard surface, barrier-free walkway to a public way or safe distance away from the building for at least 2 primary exits from the building. All other required exits shall have at least a cleared pathway maintained to a public way or safe distance from the building. An exit door or walkway to a cleared driveway leading away from the CBRF also meets this requirement.

(h) The exit path from the CBRF through the garage to the outside shall be clear, safe and unobstructed.

(2) DOORS. (a) All doors shall have latching hardware to permit opening from the inside with a one-hand, one-motion operation without the use of a key or special tool.

(b) A solid core wood door or an equivalent fire resistive door shall be provided at any interior stair between the basement and the first floor. The door shall have a positive latch and an automatic closing device and normally shall be kept closed. Enclosed furnace and laundry areas with self-closing doors in a split level home may substitute for the self-closing door between the first and second levels. Enclosed furnace and laundry areas shall have self-closing solid core wood doors or an equivalent fire resistive door when located on a common level with resident bedrooms.

(c) All interior doors equipped with locks shall be designed to unlock from either side in case of emergency.

(d) Levered handles shall be provided on all doors used by residents with manual strength or dexterity limitations.

(e) Toilet room doors shall not swing into a toilet room unless equipped with 2-way hardware.

(f) The staff member in charge on each work shift shall have a means of opening all locks or security devices on all doors in the CBRF.

(3) PATIO DOORS. A patio door may be used as a supplementary exit in an emergency in addition to the required primary exits and shall comply with all of the following:

(a) Factory installed door fastenings or hardware on sliding glass patio doors is acceptable. The use of bolt locks on sliding glass patio doors is prohibited.

(b) All door fastenings or hardware on hinged, swing-type patio doors shall be operable from the inside with one hand and one motion without the use of a key or special tool.

(c) Furniture and other obstacles shall not be placed in front of the patio door.

(d) A clear and unobstructed pathway shall be maintained to a safe distance away from the building.

(4) DELAYED EGRESS. Delayed egress door locks are permitted with department approval only in facilities with a supervised automatic fire sprinkler system and a supervised interconnected automatic fire detection system and shall comply with all of the following:

(a) No more than one device shall be present in a means of egress.

(b) A sign shall be posted adjacent to the locking device indicating how the door may be opened.

(c) The doors shall unlock upon activation of the sprinkler system or fire detection system. The doors shall unlock upon loss of power controlling the lock or locking mechanism.

(d) The door locks shall have the capability of being unlocked by a signal from the CBRF's fire command center.

(e) An irreversible process will occur which will release the latch in not more than 15 seconds when a force of not more than 15 pounds is applied for 3 seconds to the release device. Initiation of the irreversible process shall activate an audible signal in the vicinity of the door. Once the door lock has been released by the application of force to the releasing device, re-locking shall be by manual means only.

(f) To obtain department approval, the CBRF shall demonstrate that delayed egress equipment is necessary to ensure the safety of residents served by the CBRF, specifically persons at risk of elopement due to behavioral concerns, cognitive impairments or dementia, including Alzheimer's disease.

(5) STAIRS AND SHAFTS. (a) All required interior and exterior exit stairways shall be in compliance with s. Comm 61. For small CBRFs, all required interior and exterior exit stairways shall be in compliance with the Uniform Dwelling Code.

(b) One or more handrails shall be provided on all stairways in accordance with s. Comm 61. For small CBRFs, handrails shall be in compliance with s. Comm 21.04. Handrails shall be provided on the open sides of stairways and platforms. CBRFs licensed before January 1, 1997 shall have handrails at least 29 inches above the nose of the tread.

(c) Winders in stairways shall be provided with handrails on both sides, at least 29 inches above the nose of the tread.

(d) Winders in stairways used as required exits shall have treads of at least 7 inches in width at a point one foot from the narrow end of the tread.

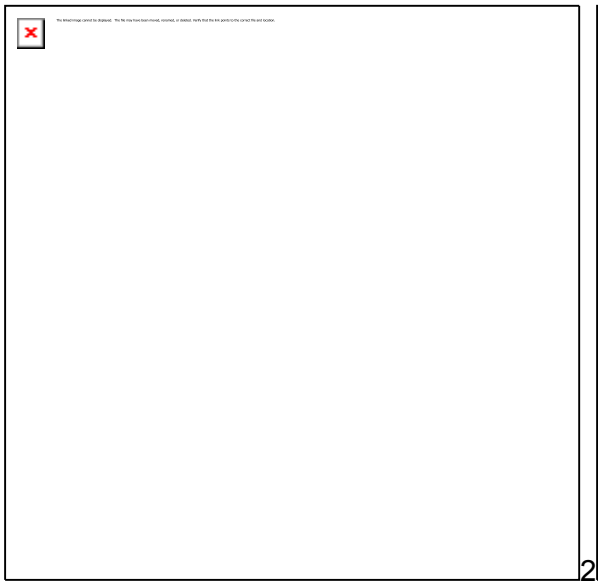
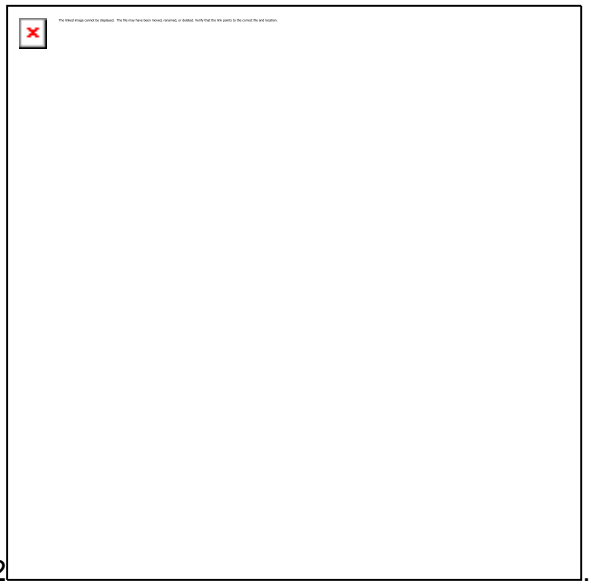
(e) Spiral stairs are prohibited for use as required exit stairs.

(f) Any shaft such as a dumbwaiter or laundry chute leading to the basement, as defined in s. Comm 61, shall be provided with a door on each level above the lowest floor. The door shall have a positive latch and an automatic closing device and shall normally be kept closed. A spring of sufficient strength to close the door and activate the door latch is acceptable for meeting the automatic closing device portion of this requirement.

(6) RAMP REQUIREMENTS. (a) *Slope.* In existing buildings, all exterior ramps shall have a slope of not more than one foot of rise in 12 feet of run. In existing buildings, an existing interior ramp with a slope of one foot of rise in 8 feet may be retained to overcome a total height not greater than 2 feet when the floor area does not permit a 1:12 ramp. The ramps shall have a slip-resistant surface and shall have no side slope.

(b) *Width.* Ramps shall be at least 4 feet wide, of which not more than 4 inches on each side may be occupied by a handrail.

(c) *Handrails.* 1 . Ramps in CBRFs initially licensed on or after January 1, 1997 shall have a handrail on each side which shall be mounted between 34 inches and 38 inches above the ramp surface. CBRFs licensed before January 1, 1997 shall have handrails mounted at least 30 inches above the ramp surface.

2.

Handrails on unenclosed ramps shall include an intermediate parallel rail at mid-height.

(d) *Clearance.* Where ramps are provided to doorways, the ramp on each side of the doorway shall be level for 5 feet from the door.

(e) *Platforms.* Ramps having a 1:12 slope shall have a level platform at 30-foot intervals. All ramps shall have level platforms at least 5 feet long where they turn and at least 5 feet by 5 feet level landing at the bottom of the ramp.

(7) EMERGENCY LIGHTING. (a) All exit passageways and stairways shall be provided with emergency egress lighting with a stand-by power source.

(b) All required exit signs shall be lighted at all times.

HFS 83.60 Windows. (1) MINIMUM SIZE. Every habitable room shall have at least one outside window with a total window area of at least 8% of the floor area in the room. The window shall be openable from the inside without the use of tools or keys. The openable area of the window shall be not less than 4% of the floor area of the room.

(2) SCREENS. All required openable windows shall have insect-proof screens.

(3) WINDOW COVERINGS. Every habitable room shall have shades, drapes or other covering material or device that affords privacy and light control.

HFS 83.61 Interior surfaces. (1) WALLS AND CEILINGS. Interior walls and ceilings in spaces subjected to moisture shall have water-resistant hard surfaces and no substantial surface irregularities or cracking.

(2) CARPET. (a) Except in a sprinklered CBRF, all newly installed carpeting shall have a minimum Class rating under the tunnel test with a flame-spread rating of 75 or less when tested in accordance with NFPA 255, or a Class II rating under the radiant panel flux test NFPA 253 with a

flame-spread rating of 0.22 watts per square centimeter or greater when tested in accordance with s. Comm 61 or the manufacturer for each specific product.

(b) Certified proof by the manufacturer of one of those tests for the specific product shall be available in the CBRF. Certification by the installer that the material installed is the product referred to in the test proof shall be obtained by the CBRF.

(c) No carpeting may be applied to walls unless the carpet has a class A rating under the tunnel test with a flame-spread rating of 25 or less.

(3) POLYURETHANE AND POLYSTYRENE SURFACES. Exposed polyurethane and polystyrene surfaces are prohibited, except varnished woodwork.

SUBCHAPTER XI - REQUIREMENTS FOR NEW CONSTRUCTION, REMODELING, ADDITIONS, OR NEWLY-LICENSED EXISTING STRUCTURES

HFS 83.62 Codes. (1) The following codes and standards are adopted as part of these rules and incorporated by reference:

(a) Wisconsin Commercial Building Code, chs. Comm 61 to 66, current edition.

(b) NFPA 72, National Fire Alarm Code, 2002 edition.

(c) NFPA 13, Standard for the Installation of Sprinkler Systems, 2002 edition.

(d) NFPA 13R, Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height, 2002 edition.

(e) NFPA 13D, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes, 2002 edition.

HFS 83.63 Plan review. (1) DEPARTMENT OF COMMERCE PLAN REVIEW. Plan review by the department of commerce is required for new construction or remodeling of CBRFs of 9 or more residents except for those CBRFs attached to hospitals or nursing homes.

(2) DEPARTMENT PLAN REVIEW AND APPROVAL. (a) *New and remodeled*. Plans for all new construction, additions, and remodeling projects for CBRFs shall be approved by the department before beginning construction, except under sub. (4) (b).

(b) *Existing buildings*. Existing buildings applying for CBRF licensure after the effective date of this section.... [revisor inserts date] shall submit plans for department review for compliance with this subsection.

(c) *Plan submission.* At least 2 sets of working drawings and specifications shall be submitted to the department. The drawings shall be scaled and to dimension. The review process begins after the department receives all required documents and fees.

(3) REQUIREMENTS FOR SUBMISSION. (a) *Specifications*. The working drawing and specifications shall meet the requirements of the department of commerce.

(b) *Stamped and sealed.* The drawings shall be stamped and sealed according to s. Comm 61.31.

(c) *Changes.* Any changes in the approved plans affecting the application of the requirements of this subchapter shall be submitted to the department before beginning the work. The changes shall be made on the previously approved drawings.

(d) *Construction.* If construction above the foundation level is not initiated within one year from the date of the department's approval, the approval shall be void and plans, specifications, and fees shall be resubmitted to the department for approval.

(4) FEES FOR PLAN REVIEW. (a) *Fees.* The fees established in this subsection shall be paid to the department for providing the plan review under sub. (2). The department may withhold plan review for those parties who have past due accounts with the department. The department shall charge a CBRF a fee in accordance with the following schedule:

1. For projects with an estimated dollar value of less than $2,000, a fee of $100.

2. For projects with an estimated dollar value of at least $2,000 but less than $25,000, a fee of $300.

3. For projects with an estimated dollar value of at least $25,000 but less than $100,000, a fee of $500.

4. For projects with an estimated dollar value of at least $100,000 but less than $500,000, a fee of $750.

5. For projects with an estimated dollar value of at least $500,000 but less than $1 million, a fee of $1,500.

6. For projects with an estimated dollar value of at least $1 million but less than $5 million, a fee of $2,500.

7. For projects with an estimated dollar value of over $5 million, a fee of $5,000.

(b) *Fee for permission to start construction.* The fee for permission to start construction shall be $80. This fee shall apply to those applicants proposing to start construction prior to the approval by the department of the plans.

(c) *Fee for plan revision.* The fee for revision of previously approved plans shall be $100. This fee applies to plans that are revised for reasons other than those requested by the department. There is no fee for revisions requested by the department as a condition of original plan approval.

(d) *Payment of fees.* Fees shall be remitted at the time the plans are submitted to the department. No plan examinations, approvals or inspections may be made by the department until fees are received.

(5) NEW AND EXISTING BUILDINGS. (a) *New construction and additions.* New construction and any additions to CBRFs after the effective date of this section…. [revisor inserts date] shall meet the requirements of this subchapter.

(b) *Existing facilities*. Any remodeling of or change in licensure class of CBRFs licensed before the effective date of this section….[revisor inserts date] shall meet the requirements of this subchapter. For purposes of this subsection, if a remodeled area in any existing building, wing, or floor exceeds 50% of the total square footage of the building, wing, or floor, then the entire building, wing or floor shall be brought into compliance with the rules governing new construction which are in effect at the time of the plan submittal to the department.

(c) *Newly licensed existing structures*. Any existing building, or any portion thereof, seeking licensure as a CBRF after the effective date of this section…. [revisor inserts date], shall meet the requirements of this subchapter.

HFS 83.64 Building standards. **(1)** Building systems shall be installed according to all referenced standards. Systems include heating, ventilation and air conditioning, plumbing, electrical, and fire protection.

(2) Interconnected detection systems in small facilities shall at minimum meet the provisions of NFPA 72, Chapter 11. Initial testing shall meet NFPA 72, Chapter 10.

(3) Facilities with a licensed capacity of 9 or more residents shall incorporate the interconnected detection system into a building fire alarm system complete with manual pull stations, horns and strobes, and a control panel with battery back-up which will activate a building-wide alarm if any initiating device is automatically or manually activated, including activation of the sprinkler system.

(4) CBRFs of the following size and class shall be provided with automatic sprinkler systems in accordance with the chart and with the requirements under HFS 83.48(8)(a).

Sprinkler System Chart for New Construction

Facility Class and Size	Sprinkler System Requirement
CBRF Large 'A' – class (21 or more)	NFPA 13 R or NFPA 13
CBRF Medium 'A' – class (9–20)	NFPA 13 R or NFPA 13
CBRF Small 'A' – class (5–8)	Not Required
CBRF Large 'C' – class (21 or more)	NFPA 13
CBRF Medium	NFPA 13 D

'C' – class (9–20)	or NFPA 13
CBRF Small 'C' – class (5–8)	NFPA 13 D or NFPA 13 R

(5) All CBRF with a license capacity of 9 or more residents shall have smoke compartments formed by smoke barriers in accordance with s. Comm 61.

(6) Small class AA facilities shall have at least 2 primary exits that are doors from each floor that provide unobstructed travel to grade level.

(7) All entrance and exit doors and interior doors serving all common living areas and all bathrooms and bedrooms in small CBRFs shall have a clear-width opening of at least 32 inches.

(8) All interior and exterior ramps shall have a slope of not more than one foot of rise in 12 feet of run.

SECTION 2. Appendix A is repealed and recreated to read:

Chapter HFS 83

APPENDIX A

Regional Offices of the Division of Quality Assurance

The Department of Health Services licenses CBRFs through the Division of Quality Assurance regional offices. Below are addresses and phone numbers of the regional offices and the counties they serve.

OFFICE	COUNTIES
NORTHEASTERN OFFICE (Green Bay) 200 N. Jefferson, Suite 211 Green Bay, WI 54301 (920) 448−5240	Brown, Calumet, Door, Fond du Lac, Green Lake, Kewaunee, Manitowoc, Ozaukee, Sheboygan, Washington, Waukesha
SOUTHEASTERN OFFICE (Milwaukee) 819 N. 6th St., Rm. 609B Milwaukee, WI 53203−1606 (414) 227−2005	Kenosha, Milwaukee, Racine
SOUTHERN OFFICE (Madison) 2135 Rimrock Road Madison, WI 53707-7940 (608) 266-7474	Adams, Columbia, Crawford, Dane, Dodge, Grant, Green, Iowa, Jefferson, Juneau, Lafayette, Rock, Sauk, Walworth
WESTERN OFFICE (Eau Claire) 610 Gibson St., Suite 1 Eau Claire, WI 54701−3687 (715) 836−4752	Barron, Bayfield, Buffalo, Burnett, Chippewa, Clark, Douglas, Dunn, Eau Claire, Jackson, La Crosse, Monroe, Pepin, Pierce, Polk, Richland, Rusk,

	Sawyer, St. Croix, Trempealeau, Vernon, Washburn
NORTHERN OFFICE (Rhinelander) 2187 N. Stevens, Suite C Rhinelander, WI 54501 (715) 365−2800	Ashland, Florence, Forest, Iron, Langlade, Lincoln, Marathon, Marinette, Marquette, Menominee, Oconto, Oneida, Outagamie, Portage, Price, Shawano, Taylor, Vilas, Waupaca, Waushara, Winnebago, Wood

SECTION 3. EFFECTIVE DATE: This rule shall take effect on the first day of the third month following publication in the Wisconsin administrative register, as provided in s. 227.22(2), Stats.

Wisconsin Department of Health Services

Dated: November 21, 2008

Karen E. Timberlake, Department Secretary

SEAL: