

(20) "Least restrictive" means the condition or environment which facilitates maximum opportunity for self-determination according to the individual capabilities and need of each resident.

(21) "Mental illness" has the meaning assigned in s. 51.01 (13) (a), Stats.

(22) "Mobile" means able to move from place to place, and includes the following levels:

(a) "Ambulatory" means able to walk without difficulty or assistance.

(b) "Semiambulatory" means able to walk with difficulty or able to walk only with assistance of aids such as crutches, canes or walkers.

(c) "Nonambulatory" means not able to walk at all. Mobility can be gained with the assistance of wheelchair or hooyer lift.

(23) "Nursing home services" means nursing care procedures which are provided in an institutional or group living situation to persons with long-term illnesses or disabilities and which can be provided safely only under 24-hour supervision of staff directed by no less than a licensed practical nurse.

(24) "Occupant" means any person who lives and sleeps in the facility.

(25) "Personal care services" means that assistance with the activities of daily living which requires a physician's orders and registered nurse supervision. These services are additionally defined by the department in the title XIX provider handbook.

(26) "Referral agency" means an agency with an ongoing responsibility for the follow up of the resident.

(27) "Relative" means a person who is a spouse, parent, step-parent, child, step-child, sibling, grandchild, grandparent, aunt, uncle, great-aunt or great-uncle, niece, nephew, or first or second cousin of the CBRF licensee.

(28) "Resident" means an unrelated adult who lives and sleeps in the facility and receives services above the level of room and board from the facility.

(29) "Sight disability" means partial or full loss of sight to the extent that an individual's ability to perform functions of daily living is limited.

(30) "Supervision" means the provision of ongoing guidance to residents in carrying out functions of daily living necessary for their health and welfare. The term protective oversight may be used interchangeably with supervision.

(31) "Supportive home care services" means that assistance with the activities of daily living which does not require a physicians's orders and registered nurse supervision. These services may be provided by the CBRF staff as part of program services or otherwise arranged for.

Note 1: See HSS 3.23(3).

Note 2: These services are included within the service category, "planning, placement, and supervision," in the Title XX state plan.

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(32) "Target group" means a class of residents with a need for similar services arising primarily out of a particular type of disability, including but not limited to the following:

- (a) Disabilities associated with the infirmities of aging.
- (b) Social disabilities resulting in contact with the correctional system.
- (c) Developmental disabilities.
- (d) Past or existing emotional disturbance or mental illness.
- (e) Alcoholism or other drug abuse.
- (f) Physical disabilities.
- (g) Social disabilities accompanying pregnancy.

(33) "Temporary resident" means a resident who does not reside in the facility for more than 120 hours.

(34) "Transitional services" (halfway house services) means supportive services to persons who currently or potentially are capable of meeting their activities of daily living independently, but who temporarily need supervision, assistance, or counseling.

(35) "Volunteer" means any person who provides services for residents without compensation. Reimbursement of out of pocket expenses is not considered compensation.

History: Cr. Register, August, 1978, No. 272, eff. 10-1-78; correction in (10) and (21) under s. 13.93 (2m) (b) 7, Stats., Register, September, 1984, No. 345.

**HSS 3.06 Licensing categories.** (1) **CATEGORY OF FACILITY.** CBRF are divided for licensing purposes into the following categories:

- (a) A small CBRF is a CBRF which is licensed to accommodate 3 to 8 residents.
- (b) A medium CBRF is a CBRF which is licensed to accommodate 9 to 20 residents.
- (c) A large CBRF is a CBRF which is licensed to accommodate 21 or more residents.

History: Cr. Register, August, 1978, No. 272, eff. 10-1-78.

**HSS 3.07 Limitations on admissions.** (1) A CBRF may not admit or retain any person:

- (a) Who is in need of nursing home services.
- (b) Who is bedfast, except that a person who is bedfast due to temporary incapacity and who is not in need of continuous nursing care procedures may be retained.
- (c) Who is not mobile.
- (d) Who is destructive of property or self, or physically or mentally abusive to others, unless the facility has identified the areas of risk and the measures taken to minimize this risk. This information shall be detailed in the program statement.

Note: See HSS 3.12.

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(2) A CBRF may admit or retain a person with a need for:

(a) Intermittent nursing care procedures.

(b) Seven hours or less per week of supportive home care services or personal care services or a combination of both.

(3) Residents of decidedly different ages, developmental levels, and behavior patterns may not be housed together if the arrangement would be harmful to the health, safety and welfare of residents housed together. Residents who are deaf, blind, epileptic, nonambulatory but mobile, or otherwise disabled shall not be segregated on the basis of their handicap.

(4) Minors may be admitted as residents only if;

(a) The facility is licensed under ch. 48, Stats., or

(b) The minor has been adjudicated as an adult, or

(c) The minor is the child of an adult resident, or

(d) The admission is approved by the department.

(5) Denial of admission shall not be based on race, color, or national origin, or on handicap unless the facility is not licensed to admit persons with particular handicaps and cannot with reasonable accommodation modify the facility to meet such a licensing requirement.

History: Cr. Register, August, 1978, No. 272, eff. 10-1-78; reprinted to correct error in (1) (a), Register, December, 1987, No. 384.

**HSS 3.08 Procedure for licensure. (1) APPLICATION FOR LICENSE.** The application for license shall be in writing upon forms provided by the department and shall contain such information as the department requires. The application shall be accompanied by the program statement prepared under s. HSS 3.12 and a floor plan indicating:

(a) The size and location of all rooms, doorways and hallways. Precise scale drawings are not required.

(b) The planned use of each room. The plan shall indicate the maximum number of occupants to be accommodated in each sleeping room.

(c) If the facility will accommodate semi-ambulatory or nonambulatory persons, which rooms will be open to occupancy by semi-ambulatory or nonambulatory persons and the type and extent of disability involved.

(2) **APPROVAL.** Within 70 days after receiving a complete application for a CBRF license, consisting of a completed application form, the program plan, the floor plan and supporting documents, and following an onsite survey by a designated representative of the department to determine whether or not the applicant is in compliance with all requirements of this chapter, the department shall either approve or deny the application. If the application is approved, the department shall issue a CBRF license. If the application is denied, the department shall specify the area of non-compliance, the applicant shall be given an opportunity to make the necessary changes, and the department shall make a new determination on the application within 30 days after the applicant notifies the department's representative that the necessary changes have been made.

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(3) **ISSUANCE OF LICENSE.** The department will issue a license if all requirements for licensure are met.

(4) **RENEWAL.** Unless sooner revoked or suspended, a license is valid for one year. Annually at such time and in such form as the department requires, the applicant shall submit a current program plan and application for renewal of the license. If the application is approved, the license will be renewed for an additional one-year period. If application for renewal is not filed on time, the department will issue a warning to the licensee. If application for renewal is not made within 30 days thereafter, the license will be canceled. (s. 50.03 (4) (c), Stats.)

(5) **CONTENT OF LICENSE.** Each license shall be issued only for the premises and persons named in the application and shall not be transferable or assignable. The license shall be available for review in the community-based residential facility. Any license granted shall state the maximum bed capacity allowed, the person to whom the license is granted, the date, the expiration date, the minimal services which the CBRF shall provide as a condition of its licensure and such additional information and special limitations as the department may prescribe. (s. 50.03 (4) (e), Stats.)

(6) **RIGHT TO FAIR HEARING.** In the event that the department denies, revokes, suspends, or does not renew a license, the facility has a right to an administrative hearing. For revocation, suspension, or nonrenewal, that hearing must be held prior to the effective date of the department's action.

Note: See s. 50.03 (5), Stats.

(7) **EXCEPTIONS TO THE RULE.** (a) The department may waive or grant variances to the requirements of these rules if:

1. Strict enforcement of the rule would result in unreasonable hardship on the facility and the waiver or variance is in accordance with the particular needs of residents and will not adversely affect the health, safety, welfare or rights of residents;

2. The waiver or variance is part of a written program plan designed to test alternative methods of delivering CBRF services, and the waiver or variance will not adversely affect the health, safety, welfare or rights of residents; or

3. Intermediate care facilities which have 15 or fewer beds are exempted from meeting certain requirements of the federal regulations, in which case they may be exempted from the corresponding requirements of these rules.

(b) The department may impose specific conditions on a waiver or variance in order to protect the health, safety, rights or welfare of residents. Violation of the conditions under which a waiver or variance is granted constitutes a violation of these rules.

History: Cr. Register, August, 1978, No. 272, eff. 10-1-78; r. and recr. (2), Register, October, 1985, No. 358, eff., 11-1-85.

**HSS 3.09 Requirements of other public agencies (1) DEPARTMENT OF INDUSTRY, LABOR AND HUMAN RELATIONS.** Each CBRF shall comply with all applicable statutes and rules of the department of industry, labor and human relations affecting health, safety and hygiene.

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