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Chapter HFS 83

COMMUNITY−BASED RESIDENTIAL FACILITIES

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Note: Chapter HSS 3 as it existed on June 30, 1996 was repealed and a new chapter HFS 83 was created effective July 1, 1996 and corrections were made under s. 13.93 (2m) (b) 1., 6. and 7., Stats., Register, July, 1996, No. 487. Corrections made under s. 13.93 (2m) (b) 6., 7. and 14., Stats., Register, November, 1996, No. 491. Corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, October, 1999, No. 526.

Preface

Homes and facilities providing residential care, supervision, treatment and services to 5 or more adults are required to be licensed as community−based residential facilities (CBRF).

No CBRF may operate without being licensed each year by the Department of Health and Family Services. To be licensed, a home or facility must comply with the minimum standards and requirements found in these rules. Community−based residential facilities for 9 to 20 residents in existing buildings must also meet the building code requirements of chs. Comm 61 to 65. All community−based residential facilities for 21 or more residents in existing buildings and all newly constructed CBRFs for 9 or more residents must meet the relevant building code requirements of chs. Comm 61 to 65. Newly constructed CBRFs for 5 to 8 residents must meet the construction requirements of chs. Comm 20 to 25. CBRFs intending to use federal funds may have to comply with other requirements in addition to those outlined here, such as National Fire Protection Association (NFPA) Standard 101 (Life Safety Code), American National Standards Institute (ANSI) standards for barrier−free design, and federal regulations.

A CBRF is subject to the same building and housing ordinances, codes and regulations of the municipality or county as similar residences located in the area in which the facility is located, pursuant to s. 46.03 (22) (b), Stats.

While these rules satisfy the federal government requirement of standards for residential facilities housing supplemental security income (SSI) recipients who need protective oversight in addition to board and room, facilities will have to satisfy certain additional requirements if they expect to qualify for HUD Section 8 funding. Facility operators should also realize that federal funding from any U.S. department of health and family services (HFS) source could be jeopardized for failure to comply with federal regulations implementing section 504 of the Vocational Rehabilitation Act of 1973 which prohibits discrimination in the provision of services to persons with physical or mental handicaps. Additional federal requirements for non−discrimination, reasonable accommodations and accessibility found in Title VIII of the Civil Rights Act of 1968, as amended, (the Fair Housing Act) and the Americans with Disabilities Act may also apply to CBRFs.

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 regulate community−based residential facilities (CBRFs) in order to safeguard and promote the health, safety, well−being, rights and dignity of each resident.

(2) The chapter is intended to ensure that all community−based residential facilities provide a living environment for their residents which is as homelike as possible and is the least restrictive of each resident's freedom as is compatible with the resident's need for care and services, that the care and services a resident needs are provided to the resident and that care and services are provided in such a manner that the resident is encouraged to move toward functional independence in daily living or to continue functioning independently to the extent possible.

(3) This chapter is expected to guide development of a range of community−based residential facilities designed to provide care, treatment and other services to persons who need supportive or protective services or supervision because they cannot or do not wish to live independently yet do not need the services of a hospital or nursing home.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−97.

HFS 83.02 Scope. (1) APPLICABILITY. This chapter applies to all community−based residential facilities.

(2) THIRD−PARTY PAYER REQUIREMENTS. Nothing in this chapter prevents a community−based residential facility from complying with the requirements of a third−party payer, nor does this chapter force a community−based residential facility to comply with additional requirements of a third−party payer.

(3) EXCEPTION TO A REQUIREMENT. (a) In this subsection:

1. "Variance" means allowing an alternative means of meeting a requirement of this chapter.

2. "Waiver" means the granting of an exemption from a requirement of this chapter.

(b) The department may in its sole discretion grant a waiver of a requirement of this chapter or a variance to a requirement of this chapter when it is demonstrated to the satisfaction of the department that granting the waiver or variance will not jeopardize the health, safety, welfare or rights to any resident in the CBRF. A request for a waiver or variance shall be in writing, shall be sent to the department and shall include justification for the requested action and a description of any alternative provision planned to meet the intent of the requirement.

(c) The department may place a time limit and conditions upon any variance or waiver granted by the department.

Note: A request for waiver of a requirement of this chapter or a variance to a requirement of this chapter should be sent to the licensing representative at the appro-

priate regional office of the Department's Division of Disability and Elder Services. See Appendix A for the addresses of those offices.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−97.

HFS 83.03 Meaning of community−based residential facility. (1) INCLUDED RESIDENTIAL FACILITIES. (a) In this chapter, "community based residential facility" or "CBRF" is a place where 5 or more unrelated adults reside in which care, treatment or services above the level of room and board but not including nursing care are provided to residents as a primary function of the facility. In this subsection:

1. "Care, treatment or services above the level of room and board" means supervision and supportive services provided by the operator, or by a person, agency or corporation affiliated with or under contract to the operator, to persons who have needs which cause them to be unable to live independently in the community.

2. "Place" means a building or portion of a building which is self−sufficient for living, dining and sleeping and the provision of care, treatment or services to its residents. In this subdivision, "self−sufficient" means having a separate and distinct program, staff and budget and separate and distinct sleeping, dining and living space.

3. "Primary function" means the basic or essential care, treatment or services provided to residents of the facility.

4. "Reside" means the intent to remain in the place permanently or continuously for more than 28 consecutive days.

5. "Unrelated adult" means any adult residing in a facility who is not a relative of the licensee or administrator.

(b) A public housing project for elderly persons as defined in s. 66.1213 (4) (L), Stats., is a community−based residential facility if the public housing authority under s. 59.53 (22) or 66.1213, Stats., or ss. 66.1201 to 66.1211, Stats., which operates the place provides care, treatment or services to persons who reside in the public housing project.

(2) EXCLUDED RESIDENTIAL FACILITIES. "CBRF" does not include:

(a) Any facility required to be licensed as a nursing home under ch. 50, Stats., and ch. HFS 132 or 134.

(b) Any state, county or municipal prison or jail.

(c) Any convent or facility owned or operated exclusively by and for members of a religious order.

(d) A place that provides lodging for individuals and in which all of the following are met:

1. Each lodged individual can exit the place under emergency conditions without the help of another individual.

2. No lodged individual receives from the owner, manager or operator of the place or the owner's, manager's or operator's agent or employee any of the following:

a. Personal care, supervision or treatment, or management, control or supervision of prescription medications.

b. Care or services other than board, information, referral, advocacy or job guidance; location and coordination of social services by an agency that is not affiliated with the owner, manager or operator, for which arrangements were made for the individual before he or she lodged in the place; or, in the case of an emergency, arrangement for the provision of health care or social services for the lodged individual by an agency that is not affiliated with the owner, manager or operator.

(e) A shelter facility for homeless individuals or families as defined under s. 560.9808 (1) (d), Stats.

(f) An adult family home under s. 50.01 (1), Stats.

(g) A facility or private home that provides care, treatment and services only for victims of domestic abuse, as defined in s. 46.95 (1) (a), Stats., and their children.

(h) A private residence which is the principal home of adults who own or lease it and who independently arrange for and receive care, treatment or services for themselves from a person or agency which has no direct or indirect right or authority to exercise direction or control over the residence.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−97; correction in (1) (b) made under s. 13.93 (2m) (b) 7., Stats., Register, October, 1999, No. 526; corrections in (1) (b) and (2) (e) made under s. 13.93 (2m) (b) 7., Stats., Register July 2001, No. 547; **correction in (2) (e) made under s. 13.93 (2m) (b) 7., Stats., Register December 2003 No. 576.**

HFS 83.04 Definitions. In this chapter:

(1) "Accessible" means the absence of barriers that would prevent a person who is semiambulatory or nonambulatory or has a functional limitation caused by impairment of sight, hearing, coordination or perception, from entering, leaving or functioning within a CBRF without physical help.

(2) "Activities of daily living" means self care, including dressing, eating, bathing, grooming, toileting, manipulating objects, ambulation and rest, and leisure activities.

(3) "Administer" means the direct application of a prescription or over−the−counter drug or device, whether by injection, ingestion or any other means, to the body of a resident by a practitioner or his or her authorized agent, or by the resident at the direction of the practitioner.

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

(5) "Advance directive" means a written instruction, such as a living will under ch. 154, Stats., or a durable power of attorney for health care under ch. 155, Stats., or as otherwise recognized by the courts of the state, relating to the provision or nonprovision of health care when the individual is incapacitated.

(6) "Agent" means a person appointed under a durable power of attorney under ch. 243, Stats., or a person appointed as health care agent under a power of attorney for health care instrument under ch. 155, Stats.

(7) "Ambulatory" means able to walk without difficulty or help.

(8) "ARA" or "area of rescue assistance" means a room or stairwell landing used for safe refuge in a fire or other emergency by residents who are unable to negotiate stairs.

(9) "Assessment" means a systematic gathering and analysis of information describing an individual's abilities and needs in each of the areas of functioning under s. HFS 83.32 (2) (a).

(10) "Building" means a structure entirely enclosed under one roof.

(11) "Capacity" means the maximum number of residents and other persons who may reside in the facility at any time under the terms of the facility license.

(12) "Case manager" means a person who is not affiliated with a CBRF but whose work or profession includes the planning, coordination and oversight of care, treatment or services to a person who is a resident.

(13) "Client group" means persons with need for similar services because of a particular disability, condition or status they have in common. Client groups include:

(a) Persons with functional impairments that commonly accompany advanced age.

(b) Persons with irreversible dementia such as Alzheimer's disease.

(c) Persons who have a developmental disability as defined in s. 51.05 (5), Stats.

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

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

(f) Persons with physical disabilities.

(g) Pregnant women who need counseling services.

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

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(i) Persons diagnosed as terminally ill.

(j) Persons with traumatic brain injury.

(k) Persons with acquired immunodeficiency syndrome (AIDS).

(14) "Congregate dining and living area" means one or more habitable rooms located outside of resident bedrooms or, in resident apartments, located outside of other habitable rooms.

(15) "Construction type" or "type of construction" means one of 3 types of building construction that correspond to department of commerce class 1 or 2, 3 modified or 8 construction standards as described in chs. Comm 61 to 65.

(16) "Continuous care" means the need for supervision, intervention or services on a 24−hour basis to prevent, control and ameliorate a constant or intermittent mental or physical condition which may break out or become critical during any time of the day or night.

Note: Examples of persons who need continuous care are wanderers, persons with irreversible dementia, persons who are self−abusive or who become agitated or emotionally upset and persons whose changing or unstable health condition requires monitoring.

(17) "Contraband" means any item the possession of which is illegal, contrary to the purpose of the resident's stay in the CBRF, or poses a physical danger to other residents or the staff or both.

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

(19) "Designated representative" means a person designated in writing by a resident or by the resident's guardian to aid a resident or act on the resident's behalf, but not including the licensee, administrator or employee, or a relative of the licensee, administrator or employee.

(20) "Dietitian" means a dietitian certified under subch. V of ch. 448, Stats.

(21) "Direct supervision" means immediate availability to continually coordinate, direct and inspect at first hand the practice of another.

(22) "Emergency admission" means immediate admission of a person to a CBRF because of a situation that creates an imminent risk of serious harm to the health or safety of the person if he or she is not admitted immediately.

(23) "Emergency discharge" means the release of a resident from a facility without a 30 day notice because of the resident's unanticipated hospitalization or a situation that creates an imminent risk of serious harm to the health or safety of the resident, other residents or to staff members.

(24) "Employee" means any person who works for a facility or for a corporation affiliated with the facility or under contract to the facility and receives compensation which is subject to state and federal employee withholding taxes.

(25) "Entrance fee" means payment required for admission which is in addition to the regular monthly fees for services and a security deposit.

(26) "Existing building" means a building constructed and occupied, or ready for occupancy, before January 1, 1997.

(27) "Exterior window" means a window which opens directly to the out−of−doors or to an unheated enclosed space such as an exterior balcony or sun porch.

(28) "Facility" means a CBRF.

(29) "First floor" means the lowest floor having one or more required exits for that floor and for any floors above or below it.

(30) "General supervision" means regularly to coordinate, direct and inspect the practice of another.

(31) "Guardian" means any person appointed as a guardian by a court under ch. 880, Stats.

(32) "Habitable floor" means any floor level used for sleeping, living, cooking or dining, including a basement under chs. Comm 61 to 65, a ground floor under chs. Comm 61 to 65 and any floor level above the basement and ground floor used for sleeping, living, cooking or dining.

(33) "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.

(34) "Large CBRF" means a CBRF for 21 or more residents.

(35) "Least restrictive" means the condition or environment which maximizes the opportunity for self−determination and community integration according to the individual capabilities and needs of each resident.

(36) "Medium CBRF" means a CBRF for 9 to 20 residents.

(37) "New construction" means construction for the first time of any building or addition to an existing building, or substantial remodeling of an existing building which equals or exceeds 50% of the current equalized value.

(38) "NFPA" means the National Fire Protection Association.

(39) "Nonambulatory" means not able to walk at all, but able to be mobile with the help of a wheelchair.

(40) "Non−medically licensed staff member" means an employee who is not a practitioner, pharmacist or registered or practical nurse licensed in Wisconsin or a medication aide who has completed training in a drug administration course approved by the department under s. HFS 132.60 (5) (d) 1.

(41) "Nursing care" means nursing procedures, excluding personal care, which are permitted under ch. N 6 to be performed only by a registered nurse or a licensed practical nurse directly on or to a resident.

(42) "Nursing supervision" means the periodic oversight of CBRF staff by a registered nurse.

(43) "Other occupant" means any person who lives and sleeps in the facility but is not a resident.

(44) "Other potentially infectious material" means semen, vaginal secretion, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, saliva in dental procedures, any body fluid visibly contaminated with blood, or any body fluid for which it is difficult or impossible to differentiate between types of body fluids.

(45) "Palliative care" means management and support provided for the reduction or abatement of pain, for other physical symptoms and for psychosocial and spiritual needs of individuals with terminal illness and includes physician services, skilled nursing care, medical services, social services, services of volunteers and bereavement services, but does not mean treatment provided to cure a medical condition or disease or to artificially prolong life.

(46) "Personal care" means help with the activities of daily living.

(47) "Pharmacist" means any pharmacist or pharmacy licensed under ch. 450, Stats., and may be a provider pharmacist or a consultant pharmacist.

(48) "Practitioner" means a person licensed in this state to prescribe and administer drugs or licensed in another state and recognized by this state as a person authorized to prescribe and administer drugs.

(49) "Primary care provider" means an agency or individual responsible for planning, arranging or providing services to a resident.

(50) "Psychotropic medication" means an antipsychotic, an antidepressant, lithium carbonate or a tranquilizer or any other drug used to treat, manage or control psychiatric symptoms or disordered behavior.

Note: Examples of drugs other than an antipsychotic or antidepressant, lithium carbonate or tranquilizer used to treat, manage or control psychiatric symptoms or disordered behavior include, but are not limited to, carbamazepine (Tegretol), which is typically used for control of seizures but may be used to treat a bi−polar disorder, and propranolol (Inderal), which is typically used to control high blood pressure but may be used to treat explosive behavior or anxiety states.

(51) "Qualified resident care staff" means a resident care staff person who has successfully completed all of the applicable training, orientation and continuing education under s. HFS 83.14.

(52) "Relative" means a spouse, parent, step−parent, child, step−child, sibling, grandchild, grandparent, aunt, uncle, niece, or nephew of the CBRF licensee.

(53) "Resident" means an adult unrelated to the licensee or administrator who lives and sleeps in the facility and receives care, treatment or services in addition to room and board.

(54) "Resident care staff" means the licensee and all employees who have one or more of the following responsibilities for residents: supervising the resident's activities or whereabouts, managing or administering medications, providing personal care or treatments, training and activity programming. Not included are staff who work exclusively in the food service, maintenance, laundry service, housekeeping, transportation, security or clerical areas, and employees who do not work on the premises of the CBRF.

(55) "Residential or health care facility" means any program, building or campus of buildings which is licensed, certified or otherwise approved by any state, county or other government unit to provide care, treatment or services to one or more persons or to receive public funding to provide care, treatment or services to one or more persons.

(56) "Respite care" means temporary placement in a CBRF for maintenance of care, treatment or services, as established by the person's primary care provider, in addition to room and board, for no more than 28 consecutive days at a time.

(57) "Room or compartment" means a space that is completely enclosed by walls and a ceiling. The room or compartment may have openings to an adjoining room or compartment if the openings have a depth of at least 8 inches from the ceiling.

(58) "Security deposit" means a payment made to the facility before admission which is refundable upon discharge, minus the cost of any damage caused by the resident but not including normal wear and tear.

(59) "Semiambulatory" means able to walk with difficulty or able to walk only with the assistance of an aid such as crutches, a cane or walker.

(60) "Significant change in a resident's condition" means one or more of the following:

(a) Deterioration in a resident's medical condition which results in further impairment of a long term nature.

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

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

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

(61) "Small CBRF" means a CBRF for 5 to 8 residents.

(62) "Stable medical condition" means that a person's clinical condition is predictable, does not change rapidly, and medical orders are not likely to involve frequent changes or complex modifications.

(63) "Story" means the space in a building between the surfaces of any floor and the floor next above or below, or roof next above, or any space not defined as basement, ground floor, mezzanine, balcony, penthouse or attic under chs. Comm 61 to 65.

(64) "Supervision" means providing protective oversight of the residents' daily functioning, keeping track of residents' whereabouts and providing guidance and intervention when needed by a resident.

(65) "Supervision of self−administered medication" means a staff person observing the resident removing the dosage of a prescription or over−the−counter medication from the labeled container and self−administering it. Supervision of self−administered medication does not include the staff person removing the correct dose of medication for the resident.

(66) "Supportive services" means services provided during the final stages of an individual's terminal illness and dying and after the individual's death to meet the psychological, social and spiritual needs of family members of the terminally ill individual.

(67) "Terminal illness" means a medical prognosis that an individual's life expectancy is less than 12 months.

(68) "Universal precautions" means measures taken to prevent transmission of infection from contact with blood or other body fluids or materials having blood or other body fluids on them, as recommended by the U.S. public health services centers for disease control and adopted by the U.S. occupational safety and health administration (OSHA) as 29 CFR 1910.1030.

Note: Information about universal precautions may be obtained from the Bureau of Occupational Health, Division of Public Health, P.O. Box 2659, Madison, WI 53701−2659.

(69) "Utensils" means dishes, silverware and pots and pans used for preparing, serving or consuming food.

(70) "Volunteer" means any person who provides services for residents without compensation, except for reimbursement for out of pocket expenses.

(71) "Wanderer" means a person in need of continuous care who, because of a temporary or permanent mental impairment, may leave the CBRF without the knowledge of the staff and as a result may be exposed to danger or suffer harm.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−97; correction in (13) (d) made under s. 13.93 (2m) (b) 7., Stats., Register, October, 1999, No. 526; **corrections in (15), (32) and (63) made under s. 13.93 (2m) (b) 7., Stats., Register December 2003 No. 576.**

HFS 83.05 Licensing categories. Each CBRF shall be licensed by size and class as follows:

(1) SIZE OF CBRF. (a) A CBRF for 5 to 8 residents shall be licensed as a small CBRF.

(b) A CBRF for 9 to 20 residents shall be licensed as a medium CBRF.

(c) A CBRF for 21 or more residents shall be licensed as a large CBRF.

(2) CLASSES OF CBRF. (a) *Class A ambulatory (AA).* A class A ambulatory CBRF may serve only residents who are ambulatory and are mentally and physically capable of responding to an electronic fire alarm and exiting the facility without any help or verbal or physical prompting.

(b) *Class A semiambulatory (AS).* A class A semiambulatory CBRF may serve only residents who are ambulatory or semiambulatory and are mentally and physically capable of responding to an electronic fire alarm and exiting the facility without any help or verbal or physical prompting.

(c) *Class A nonambulatory (ANA).* A class A nonambulatory CBRF may serve residents who are ambulatory, semiambulatory or nonambulatory but only if they are mentally and physically capable of responding to an electronic fire alarm and exiting the facility without any help or verbal or physical prompting.

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

(e) *Class C semiambulatory (CS).* A class C semiambulatory CBRF may serve only residents who are ambulatory or semiambulatory but one or more of whom are not physically or mentally capable of responding to an electronic fire alarm and exiting the facility without help or verbal or physical prompting.

(f) *Class C nonambulatory (CNA).* A class C nonambulatory CBRF may serve residents who are ambulatory, semiambulatory or nonambulatory but one or more of whom are not physically or mentally capable of responding to an electronic fire alarm and exiting the facility without help or verbal or physical prompting.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−97; **CR 03−033: am. (1) (c) Register December 2003 No. 576, eff. 1−1−04.**

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HFS 83.06 Limitations on admissions and retention. (1) PROHIBITED ADMISSIONS AND RETENTION. (a) A CBRF may not admit or retain any person:

1. Who is confined to a bed by illness or infirmities, except that a person who has a temporary incapacity or a person who is terminally ill and is receiving care, treatment or services under s. HFS 83.34 may be admitted or retained.

2. 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 CBRF's program statement under s. HFS 83.07 (2) and the resident's individualized service plan developed under s. HFS 83.32 (2).

3. Who has physical, mental, psychiatric or social needs that are not compatible with the CBRF's client group or with the care, treatment or services provided by the CBRF.

4. a. Who is in need of more than 3 hours of nursing care per week except for a temporary condition for which more than 3 hours of nursing care per week is needed for no more than 90 days. The department may grant a waiver or variance to this requirement if the resident has a stable medical condition which may be treatable or a long−term condition needing more than 3 hours of nursing care per week for more than 90 days; the resident is otherwise appropriate for CBRF level care; and the services needed to treat the resident's condition are available in the CBRF.

b. The resident may remain in the CBRF until the department has issued a decision on the waiver or variance request under subd. 4. a. unless, in the opinion of the department, the resident's health needs warrant immediate transfer of the resident to a nursing home or a hospital.

5. Who requires 24 hour supervision by a registered nurse or licensed practical nurse.

6. Who has chronic personal care needs that cannot be met by the facility or a community agency.

7. Who requires a chemical or physical restraint except as authorized under s. HFS 83.21 (4) (n).

(b) The department may grant a waiver or variance to any prohibition under this subsection when the department is satisfied that granting a waiver or variance will meet the best interests of the resident or potential resident.

(2) HEALTH. All persons who reside in the facility, other than residents, shall be in such physical and mental health that they will not adversely affect the health, safety or personal welfare of residents.

(3) INTERMITTENT MENTAL INCAPACITY. Persons who are intermittently mentally incapable of independent action for self−preservation under emergency conditions may be admitted or retained only in a class CA, CS or CNA CBRF.

(4) AGE, DEVELOPMENTAL LEVEL AND BEHAVIOR. (a) No resident may be segregated solely because of a physical or mental disability except as provided in par. (b).

(b) Residents of different ages, developmental levels or behavior patterns may not be housed together if the arrangement would be harmful to the health, safety or welfare of residents housed together, or if the program or services needed to meet the needs of various residents, as specified in their assessment reports and individualized service plans, are not compatible.

(5) PROTECTIVE PLACEMENT. (a) Persons found incompetent under s. 880.33, Stats., shall not be admitted to a CBRF licensed for 16 or more residents unless there is a court−ordered protective placement under s. 55.06, Stats., prior to admission.

(b) When a resident of a CBRF licensed for 16 or more residents is found incompetent under s. 880.33, Stats., while a resident, the licensee or administrator shall send a written notice to the guardian that a court−ordered protective placement must be obtained under s. 55.06, Stats., for the resident's continued stay in the CBRF.

(c) The guardian of a person found incompetent under s. 880.33, Stats., may consent to the admission or retention of a non−protesting person in a CBRF licensed for 15 or fewer residents without a court−ordered protective placement under s. 55.06, Stats. If the person being admitted to the CBRF verbally objects to or otherwise actively protests his or her admission, the administrator of the facility shall immediately notify the protective services agency for the county in which the person is living that the person is protesting his or her admission and request that a representative of the county protective agency visit the person as required under s. 55.05 (5) (c), Stats.

Note: Section 55.05 (5) (c), Stats., requires that a representative of the county protective services agency visit the incompetent person as soon as possible, but not later than 72 hours after notification by the facility, to carry out the procedures required in that statute.

(6) MINORS. A minor may be admitted as a resident only with 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 child caring institution except that the department may, at its discretion, not apply certain requirements in those chapters related to physical plant, fire safety, organization and administration.

(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 requirements in Table 83.41 in regard to minimum bedroom area and s. HFS 83.41 (3) in regard to minimum congregate dining and living area shall apply to the child.

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

(7) FAMILY CARE INFORMATION AND REFERRAL. If the secretary of the department has certified that a resource center, as defined in s. HFS 10.13 (42), is available for the facility under s. HFS 10.71, the facility 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.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−97; correction in (6) (b) made under s. 13.93 (2m) (b) 7., Stats., Register, October, 1999, No. 526; cr. (7), Register, October, 2000, No. 538, eff. 11−1−00.

HFS 83.07 Licensing administration. (1) APPLICATION. An application for a license shall be in writing on a form provided by the department and shall contain the information required by the department. The application shall be accompanied by a written program statement, a floor plan and a criminal records check form, DJ−LE−250 or 250A, from the department of justice and the background information disclosure form, HFS−64, for the applicant and any relatives of the applicant who live in the facility. The applicant shall submit a check or money order with the application, when notified by the department to do so, in an amount sufficient to cover the fees for conducting the criminal records checks.

Note: For a copy of the application form for a CBRF license, write or phone the appropriate regional office of the Department's Division of Disability and Elder Services. See Appendix A for the addresses and phone numbers of those offices.

(2) PROGRAM STATEMENT. (a) *Content.* The program statement shall include all of the following:

1. The name of the licensee and the name of the administrator if different from the licensee.

2. The times that the administrator is on duty at the CBRF and the employee position in charge when the licensee or administrator is away.

3. The capacity of the facility which shall state the maximum combined number of residents, persons in respite care and other occupants.

4. The class of CBRF under s. HFS 83.05 (2).

5. The client group to be served. If more than one client group will be served, an explanation shall be included of how the client groups are compatible with each other and the approximate proportion of each client group to the total resident population shall be identified. If persons from any of the following client groups will be admitted, a full description of their special needs shall be provided:

a. Persons with a form of irreversible dementia such as Alzheimer's disease.

b. Persons diagnosed as terminally ill.

c. Persons with traumatic brain injuries.

d. Persons with acquired immunodeficiency syndrome (AIDS).

e. Persons who require a behavioral treatment program.

f. Any other group of persons with special care needs.

6. A clearly written description of the program goals of the facility consistent with the needs of the residents to be served, and a full description of the care and services to be provided and by whom. If more than one client group will be admitted, the statement shall describe care and services to be provided to each client group. The description of services shall include the number of employees of the facility and the services provided by each employee or employee category.

7. The entrance fee, if any.

8. If the facility plans to provide respite care, identification of the number of persons to be served and the client group.

(b) *Change*. Any change in a program shall be documented in a revised program statement which shall be submitted to the department for approval at least 30 days before the change is implemented.

(c) *Availability.* A program statement shall be available to staff, residents and guardians and designated representatives of residents, and to persons seeking placement in the facility for themselves, a client, a relative or a friend.

(3) FLOOR PLAN. A floor plan shall indicate:

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

(b) The planned use of each room, with the maximum number of residents or other occupants to be accommodated in each sleeping room.

(c) If the facility will accommodate semiambulatory or nonambulatory persons, which rooms can be occupied by semiambulatory or nonambulatory persons and the type and extent of disability involved.

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

(5) SITE APPROVAL FOR CERTAIN AREAS. A CBRF may not be located on a parcel of land zoned for commercial, industrial or manufacturing use. If a waiver or variance is requested the department shall consider the client group to be served and any special needs members of the group may have, length of stay of residents, programming offered by the facility, potential for resident interaction with the community, suitability of the premises for the client group and existing use of property near the proposed facility.

(6) ACTION BY THE DEPARTMENT ON APPLICATION FOR A LICENSE. (a) *Granting or denying of a license*. Within 70 days after receiving a complete application for a CBRF license, consisting of a completed application form, a criminal records check form, DJ−LE−250 or 250A, from the department of justice and the background information disclosure form, HFS−64, for the applicant and any relative who lives in the facility, the program statement, the floor plan, and other supporting documents, and following an on−site survey by the department to determine if the applicant complies with all requirements of this chapter, the department shall either approve or deny the license. If the license is denied, the department shall specify in writing the reasons for denial.

(b) *Issuance of license.* 1. The department shall issue a license if all the requirements for licensure are met and the applicant has paid the applicable fees.

2. A license is issued only for the premises and persons named in the application and is not transferable or assignable. The license shall be visibly displayed in a public area in the CBRF readily accessible to residents, staff and visitors. Any license granted shall state the maximum resident capacity allowed, which shall include the number of respite care residents, the client group or groups the CBRF may serve, the name of the licensee, the date, any condition of licensure and any additional information that the department may prescribe.

(7) REPORTING. A license is valid indefinitely unless suspended or revoked. Every 24 months, on a schedule determined by the department, a licensee shall submit a biennial report in the form and containing the information that the department requires, including payment of the fees required under s. 50.037 (2) (a), Stats. If a complete biennial report is not timely filed, the department shall issue a warning to the licensee. If a licensee who has not filed a timely report fails to submit a complete report to the department within 60 days after the date established under the schedule determined by the department, the department may revoke the license.

Note: For copies of the application form and the annual report form, DCS 310, write or phone the appropriate regional office of the Department's Division of Supportive Living. See Appendix A for the addresses and phone numbers of those offices.

(8) AMENDMENT TO LICENSE. A licensee shall submit a written request for an amendment to the license to the department before changing a practice described in the terms and conditions of the license.

(9) ADDITIONAL LICENSE. A licensee applying for a license for an additional CBRF location shall be in compliance with all of the applicable requirements in the operation of all CBRFs for which the licensee holds a current license.

(10) ACTION BY THE DEPARTMENT TO ENFORCE THIS CHAPTER. (a) *Plan of correction.* 1. When a notice of violation is issued by the department the licensee shall submit a plan of correction to the department no more than 30 days after the date of the notice. The department may require that a plan of correction be submitted within a specified time less than 30 days after the date of notice for violations that the department determines may be harmful to the health, safety, welfare or rights of residents.

2. The department may require modifications in the proposed plan of correction.

(b) *Placing limits on clients groups*. The department may, at any time, following notice to the licensee and through modification of a license, limit the types of client groups served by a CBRF or the number of client group members served by the CBRF for any of the following reasons:

1. The client groups are not compatible.

2. The administrator and employees have not met the training requirements applicable to each client group.

3. The licensee is unable to demonstrate that the needs of the client group members as identified by their assessments under s. HFS 83.32 (1) are being met.

(c) *Placing conditions on license.* Pursuant to s. 50.03 (4) (e), Stats., the department may place a condition on a license, if the

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http://docs.legis.wisconsin.gov/code/admin_code

department finds that a condition or occurrence relating to the operation and maintenance of a CBRF directly threatens the health, safety or welfare of a resident.

(11) LICENSE DENIAL OR REVOCATION. The department may refuse to grant a license if it determines that the applicant is not fit and qualified pursuant to s. 50.03 (4) (a) 1., Stats., and s. HFS 83.11 (1) or fails to meet the requirements for licensure in this chapter and ch. 50, Stats. The department may revoke a license pursuant to s. 50.03 (5g), Stats., if the applicant or licensee or any administrator, employee, or any other person affiliated with or living in the CBRF who has contact with residents:

(a) Is the subject of a pending criminal charge that substantially relates to the care of adults or minors, the funds or property of adults or minors or activities of the CBRF.

(b) Has been convicted of a felony, misdemeanor or other offense which substantially relates to the care of adults or minors, the funds or property of adults or minors or activities of the CBRF.

(c) Has a record of violating applicable laws and regulations of the United States or this or any other state in the operation of a residential or health care facility, or in any other health−related activity.

(d) Has substantially failed to comply with any provision of this chapter or ch. 50, Stats.

Note: Examples of actions the department will consider in making a determination that an act substantially relates to the care of adults or minors, the funds or property of adults or minors or activities of the CBRF are: abuse, neglect, sexual assault, indecent exposure, lewd and lascivious behavior, or any crime involving non−consensual sexual conduct; child abuse, sexual exploitation of children, child abduction, child neglect, contributing to the delinquency or neglect of a child, enticing a child, enticing a child for immoral purposes, exposing a minor to pornography or other harmful materials, incest, or any crime involving children as victims or participants; armed robbery, aggravated battery, false imprisonment, kidnapping, homicide, any crimes involving bodily harm or threat of bodily harm, any crime involving use of a dangerous weapon, or any crime evidencing disregard to health and safety; cruelty, neglect, or abandonment of animals and instigating fights between animals; burglary, extortion, forgery, concealing identity, embezzlement, and arson; crimes involving a substantial misrepresentation of any material fact to the public including bribery, fraud, racketeering or allowing an establishment to be used for illegal purposes; offenses involving narcotics, alcohol and controlled substances that result in a felony conviction; operating a motor vehicle while under the influence of an intoxicant or other drug, operating after revocation, and leaving the scene of an accident after injury or death to a person or damage to a vehicle driven or attended by any person.

(12) SUMMARY SUSPENSION OF A LICENSE. Pursuant to ss. 227.51 (3) and 50.03 (5g), Stats., the department may, by written order, summarily suspend a license when the department finds that public health, safety or welfare imperatively requires emergency action.

(13) APPEAL. (a) Any person whose application for a license is denied or whose license is revoked may request a hearing on that decision under ss. 227.42 and 50.03 (5g) (f), Stats.

(b) A request for a hearing shall be filed in the department of administration's division of hearing and appeals within 10 days after the date of the notice under sub. (11) or (12).

Note: A request for a hearing should be submitted to the Division of Hearings and Appeals, P. O. Box 7875, Madison, Wisconsin 53707.

(14) POSTING OF CITATIONS AND NOTICES. (a) The licensee shall post next to the CBRF license any citation of deficiency, notice of revocation and any other notice of enforcement action initiated by the department on forms and in correspondence received from the department. Citations of deficiency, notices of revocation and other notices of enforcement action shall be posted immediately upon their receipt. Citations of deficiency shall remain posted for 30 days following receipt or until compliance is achieved, whichever is longer. Notices of revocation and other notices of enforcement action shall remain posted until a final determination is made.

(b) The licensee shall make available, upon request, to a resident or prospective resident, the resident's or prospective resident's guardian, and the resident's or prospective resident's family members, designated representative and case manager, the results of all department surveys, monitoring visits and complaint investigations, if any, for the period of 12 months preceding the request.

(15) POSTING OF OMBUDSMAN INFORMATION. The licensee or his or her designee shall post in a conspicuous location in the community−based residential facility a statement, provided by the board on aging and long−term care, concerning the long−term care ombudsman program under s. 16.009 (2) (b), Stats., which includes the name, address and telephone number of the ombudsman.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−97; correction in (13) (b) made under s. 13.93 (2m) (b) 6., Register, October, 1999, No. 526; am. (6) (b) 2., (11), (13) and (14), r. and recr. (7), Register, August, 2000, No. 536, eff. 9−1−00.

Subchapter II — Administrative Management

HFS 83.11 Licensee. (1) QUALIFICATIONS. (a) A CBRF licensee or license applicant shall, on request of the department, produce evidence of financial stability to permit operation of the facility for at least 60 days.

Note: Program contracts or agency agreements would meet the intent of this requirement.

(b) A CBRF licensee or license applicant shall be fit and qualified pursuant to s. 50.03 (4), Stats. In assessing whether the licensee or license applicant is fit and qualified, the department shall consider evidence of any type of abuse, neglect or mistreatment of a person or misappropriation of the property of a person by the licensee or license applicant, fraud or substantial or repeated violations of applicable laws and rules in the operation of any health or social care facility or service organization, or in the care of dependent persons, or a charge or conviction of a crime substantially related to care of a dependent person or the activities of a residential or health care facility or in any other health related activity, or a crime against a minor.

(c) A CBRF licensee or license applicant shall be at least 21 years of age.

(2) CRIMINAL RECORDS CHECK. (a) Prior to issuing an initial license the department shall conduct a criminal records check with the department of justice on each applicant for an initial license, and may conduct a criminal records check on any adult relative of the license applicant who lives in the facility and any other occupant. At least every second year following the issuance of an initial license the department shall conduct a criminal records check with the department of justice on each licensee, and may conduct a criminal records check on any adult relative of the licensee who lives in the facility and any other occupant. The department shall, at the same times the criminal records checks are made with the department of justice, require the license applicant or licensee, and may require any adult relative of the license applicant or licensee who lives in the facility and any other occupant, to complete the department's background information disclosure form HFS−64. If any of these persons has a conviction record or a pending criminal charge which substantially relates to the care of adults or minors, the funds or property of adults or minors or activities of a residential or health care facility or in any other health related activity, the department may deny, revoke, refuse to renew or suspend the license, initiate other enforcement action provided in this chapter or in ch. 50, Stats., or place conditions on the license.

(b) If the applicant, licensee, any adult relative of the applicant or licensee who lives in the facility, or any other occupant has experience as a nurse assistant, home health aide or hospice aide, as defined under ch. HFS 129, the department shall check its registry for nurse assistants, home health aides and hospice aides [caregiver registry] to determine if there is on the registry a substantiated finding that the person abused or neglected a client or misappropriated the funds or property of a client. If any of these persons has a substantiated finding of one or more of these offenses, the department may deny, revoke, refuse to renew or suspend the license, initiate other enforcement action provided in this chapter or in ch. 50, Stats., or place conditions on the license.

(c) If an applicant for an initial or a renewal license is a corporation or board of directors which will not be involved in the day−

to−day operation of the facility that applicant is exempt from the requirements in pars. (a) and (b).

(d) Paragraphs (a), (b) and (c) apply to a licensee, any adult relative who lives on the premises and any other occupant of the facility on the first license renewal date following January 1, 1997, and every second year thereafter.

Note: Refer to the note under s. HFS 83.07 (11) (d) for examples of actions the department will consider in making a determination that an act substantially relates to the care of adults or minors, the funds or property of adults or minors or activities of the CBRF.

(3) RESPONSIBILITIES. (a) The licensee shall ensure that the facility and its operation comply with all laws governing the facility and its operation.

(b) The licensee shall comply with s. 50.03 (14), Stats., relating to the closing of a facility. The license shall be surrendered to the department when the facility is closed.

(c) The licensee shall report any change in the client group in writing to the department at least 30 days before the change. A 30 day written notice of any change shall also be provided to each resident and each guardian, designated representative, referral agency and third party payer.

(d) If the licensee is not the CBRF administrator, the licensee shall notify the department within 7 days after there is a change in the person who is the administrator.

(e) The licensee shall ensure that at least one copy of ch. HFS 83 is in the CBRF at all times and is available for review by any resident, any resident's guardian or designated representative and any employee at any time on request.

(f) If the licensee believes that a resident who does not have a guardian is incompetent under s. 880.01 (4), Stats., the licensee shall refer the resident to the county protective services agency to determine if a petition for guardianship should be filed under s. 880.07, Stats., unless any of the following applies:

1. The resident was admitted to the CBRF under s. 50.06, Stats.

2. The resident has executed a power of attorney for health care instrument under ch. 155, Stats., which specifically authorizes the health care agent to consent to admission of the resident to a CBRF and the resident did not have a diagnosis of developmental disability or mental illness at the time of admission to the CBRF.

3. The resident has executed a power of attorney for health care instrument under ch. 155, Stats., that did not specifically authorize the health care agent to consent to admission of the resident to a CBRF but the health care agent temporarily placed the resident in the CBRF under the conditions described in s. 155.20 (2) (c) 2. b., Stats.

Note: Section 880.01 (4), Stats., reads as follows: "Incompetent" means a person adjudged by a court of record to be substantially incapable of managing his property or caring for himself by reason of infirmities of aging, developmental disabilities, or other like incapacities. Physical disability without mental incapacity is not sufficient to establish incompetence.

(g) The licensee shall ensure that criminal record checks with the department of justice, checks with the department's registry for nurse assistants, home health aides and hospice aides and completion of the department's background information disclosure form HFS−64 are done for the CBRF administrator as required under s. HFS 83.12 (3), if the licensee is not the administrator, and for each employee who works on the premises of the CBRF or has contact with residents, as required under s. HFS 83.13 (6).

(h) 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.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−97.

HFS 83.12 Administrator. (1) ADMINISTRATIVE RESPONSIBILITIES. A licensee shall meet the qualifications of an administrator and act as administrator or shall designate a person or persons to be the administrator or administrators responsible for personnel, finances, physical plant and the day−to−day operation of the CBRF. Any person carrying out more than one of the responsibilities of an administrator under this subsection shall meet the qualifications in sub. (2).

(2) QUALIFICATIONS. (a) The administrator of a CBRF shall have the physical and emotional capacity, education and experience to respond to the needs of the residents and manage the complexity of the program.

(b) The administrator of a CBRF shall meet all of the following requirements:

1. Be at least 21 years of age.

2. Have completed high school or equivalent.

3. Have administrative experience or one post−high school course in business management.

4. Have one year of experience working with the client group or one post−high school course related to the needs of the client group.

(3) CRIMINAL RECORDS CHECK. (a) The licensee shall, prior to hiring an administrator, and at least every 2 years after hiring an administrator, do all of the following:

1. Conduct a criminal records check with the department of justice to determine if the person has a conviction record or a pending criminal charge which substantially relates to the care of adults or minors, the funds or property of adults or minors or activities of a residential or health care facility or in any other health related activity. If the person lives on the premises of the CBRF with any adult relative, the licensee shall also conduct a criminal records check of the person's adult relative who lives on the premises. The licensee shall, at the same times the criminal records checks are made with the department of justice, require the administrator and any adult relative of the administrator who lives on the premises of the CBRF, to complete the department's background information disclosure form HFS−64. The licensee shall consider any conviction or pending criminal charge and any mitigating circumstances in the hiring process, in retaining the person in employment, and in regard to any adult relative who lives on the premises and that person's contact with residents and the funds or property of residents.

2. a. If the person has experience as a nurse assistant, home health aide or hospice aide, as defined under ch. HFS 129, check with the department's registry for nurse assistants, home health aides and hospice aides to determine if there is on the registry a substantiated finding that the person has abused or neglected a client or misappropriated the funds or property of a client. If there is a substantiated finding of one or more of these offenses, the person shall not be hired to work on the premises of the CBRF or in any position in which the person would come into contact with residents or have access to the funds or property of residents.

b. If the person lives on the premises of the CBRF with any adult relative who has experience as a nurse assistant, home health aide or hospice aide, check with the department's registry for nurse assistants, home health aides and hospice aides for that adult relative. If there is a substantiated finding of one or more of the offenses under subd. 2. a., the relative shall not be allowed to live on the premises or to come in contact with the residents or have access to the funds or property of residents.

(b) The requirements under par. (a) apply to a person employed as an administrator and any adult relative who lives on the premises of the CBRF, on January 1, 1997 and shall be completed by the licensee within 6 months after January 1, 1997 and every second year thereafter.

(c) A copy of the criminal records check form, DJ−LE−250 or 250A, from the department of justice, the completed department background information disclosure form HFS−64 and the information from the check with the department's registry for nurse assistants, home health aides and hospice aides shall be available to the department for review.

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http://docs.legis.wisconsin.gov/code/admin_code

Note: Refer to the note under s. HFS 83.07 (11) (d) for examples of actions to be considered in making a determination that an act substantially relates to the care of adults or minors, the funds or property of adults or minors or activities of the CBRF.

Note: An identification record request form may be obtained from the Department of Justice, Crime Information Bureau, attention Records Check Unit, P.O. Box 2718, Madison, WI 53701−2718.

Note: Contact the department's caregiver registry by calling (608) 266−5545 to receive the information you need from an automated voice response unit, or you may call (608) 267−2374.

Note: Wisconsin's Fair Employment Law, ss. 111.31 to 111.395, Stats., prohibits discrimination because of a criminal record or a pending charge unless the record or charge substantially relates to the circumstances of the particular job or licensed activity.

(4) TRAINING. The administrator of a CBRF shall comply with the training requirements in s. HFS 83.14.

(5) SUPERVISION AND MONITORING. (a) The administrator of a CBRF shall supervise and monitor resident care and services.

(b) The administrator shall ensure that any employee providing supervision, care or treatment to a resident:

1. Reviews the resident's assessment and individualized service plan prior to assuming any responsibility for a resident.

2. Has continual access to the assessment and individualized service plan for that resident.

3. Has information on any behavior patterns of a resident which are or may be harmful to that resident or other persons prior to assuming any responsibility for that resident.

(c) The administrator shall refer to an appropriate behavioral provider or health care provider for evaluation or treatment any resident who has behavior patterns which appear to be harmful to the resident or other persons or who is destructive of property or self or physically or mentally abusive to others, when staff of the facility are unable to control, manage or prevent that behavior.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−97.

HFS 83.13 Personnel. (1) JOB DESCRIPTIONS. Written job descriptions shall be available for all employees. An employee's job description shall outline the duties, responsibilities and qualifications required for the employee.

(2) JOB QUALIFICATIONS. (a) Any resident care staff shall have the physical and emotional capacity, education and experience to respond to the needs of the residents.

(b) Any employee who is in charge of the facility at any time in the absence of the administrator or who is a resident care staff person shall be at least 18 years old.

(3) TRAINING. All employees shall complete the training requirements that apply to them under s. HFS 83.14.

(4) COMMUNICABLE DISEASE CONTROL. (a) There shall be documentation by a physician or a licensed registered nurse indicating that a prospective employee has been screened for illness detrimental to residents, including tuberculosis. The documentation shall be completed within 90 days before the start of employment. The documentation shall be kept confidential except that the department shall have access to the documentation for verification.

(b) A person who has a communicable disease may not be permitted to work in the CBRF in a position where the disease would present a significant risk to the health or safety of residents.

(c) Persons with symptoms or signs of a communicable disease shall be tested to determine if they have a disease which is reportable under ch. HFS 145.

(5) INFECTION CONTROL PROGRAM. (a) The licensee shall establish and follow an infection control program using the universal precautions contained in the U.S. Occupational Safety and Health Administration Standard 29 CFR 1910.1030 for the control of blood−borne pathogens for any employee who may be occupationally exposed to blood and any other potentially infectious material.

(b) The infection control program shall include a written policy and training in and implementation of the universal precautions.

Note: Information about universal precautions may be obtained from a county or city health department or from the Department's Bureau of Occupational Health. Phone (608) 266−9383.

(6) CRIMINAL RECORDS CHECK. (a) The administrator or designee shall, prior to hiring a person who will work on the premises of the CBRF or have contact with residents, and at least every 2 years after the person begins employment, do all of the following:

1. Conduct a criminal records check with the department of justice to determine if the person has a conviction record or a pending criminal charge which substantially relates to the care of adults or minors, the funds or property of adults or minors or activities of a residential or health care facility or in any other health related activity. If the person lives on the premises of the CBRF with any adult relative, the administrator shall also conduct a criminal records check of the person's adult relative who lives on the premises. The administrator shall, at the same times the criminal records checks are made with the department of justice, require the person and any adult relative of the person who lives on the premises of the CBRF, to complete the department's background information disclosure form HFS−64. The administrator shall consider any conviction or pending criminal charge and any mitigating circumstances in the hiring process, in retaining the person in employment, and in regard to any adult relative who lives on the premises and that person's contact with residents and the funds or property of residents.

2. a. If the person has experience as a nurse assistant, home health aide or hospice aide, as defined under ch. HFS 129, check with the department's registry for nurse assistants, home health aides and hospice aides [caregiver registry] to determine if there is on the registry a substantiated finding that the person has abused or neglected a client or misappropriated the funds or property of a client. If there is a substantiated finding of one or more of these offenses, the person shall not be hired to work on the premises of the CBRF or in any position in which the person would come into contact with residents or have access to the funds or property of residents.

b. If the person lives on the premises of the CBRF with any adult relative who has experience as a nurse assistant, home health aide or hospice aide, check with the department's registry for nurse assistants, home health aides and hospice aides for that adult relative. If there is a substantiated finding of one or more of the offenses under subd. 2. a., the relative shall not be allowed to live on the premises or to come in contact with residents or have access to the funds or property of residents.

(b) The requirements under par. (a) apply to any employee who works on the premises of the CBRF, or has contact with the residents, and any adult relative who lives on the premises of the CBRF, on January 1, 1997 and shall be completed by the licensee within 6 months after January 1, 1997 and every second year thereafter.

(c) A copy of the criminal records check form, DJ−LE−250 or 250A, from the department of justice, the completed department background information disclosure form, HFS−64, and the information from the check with the department's registry for nurse assistants, home health aides and hospice aides shall be available to the department for review.

Note: Refer to the note under s. HFS 83.07 (11) (d) for examples of actions to be considered in making a determination that an act substantially relates to the care of adults or minors, the funds or property of adults or minors or activities of the CBRF.

Note: An identification record request form may be obtained from the Department of Justice, Crime Information Bureau, attention Records Check Unit, P.O. Box 2718, Madison, WI 53701−2718.

Note: Contact the department's caregiver registry by calling (608) 266−5545 to receive the information you need from an automated voice response unit, or call (608) 267−2374.

Note: Wisconsin's Fair Employment Law, ss. 111.31 to 111.395, Stats., prohibits discrimination because of a criminal record or a pending charge unless the record or charge substantially relates to the circumstances of the particular job or licensed activity.

(7) EMPLOYEE PERSONNEL RECORD. (a) A separate personnel record shall be maintained and kept up−to−date for each employee. The licensee shall ensure that all employee records are

adequately safeguarded against destruction, loss or unauthorized use. An employee personnel record shall include all of the following information:

1. Name and address of the employee.
2. The employee's social security number.
3. The employee's date of birth.
4. The employee's beginning date of employment.
5. Job−related experience and training.
6. Educational qualifications.
7. Job description.
8. A completed criminal record check form from the department of justice, a completed background information disclosure form, HFS−64, and the information from the check with the department's registry for nurse assistants, home health aides and hospice aides, when applicable.
9. Documentation of successful completion of the initial training and inservice training requirements and continuing education requirements under s. HFS 83.14.
10. The screening for communicable disease.
11. Description of any disciplinary action.
12. Date of discharge or resignation.

(b) Employee personnel records shall be available at the facility for review by the department.

(c) An employee's personnel record shall be available to the department for at least 3 years after ending employment. Records shall be retained in a secure, dry place.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−97.

HFS 83.14 Training. (1) MINIMUM INITIAL TRAINING. The administrator, all resident care staff and other staff as specified shall receive the following initial training unless otherwise specified or unless exempted under sub. (6) from some or all of the training. The administrator and all resident care staff shall receive 45 hours of initial training. Any other staff person required to take some of the initial training applicable to his or her job responsibilities shall receive the same amount of training in those areas that is provided to the administrator. Except as provided in par. (d), persons employed by a CBRF on January 1, 1998, shall successfully complete all initial training within 6 months after January 1, 1998. Except as provided in par. (d), employees hired after January 1, 1998, shall successfully complete all initial training within 6 months after starting employment. Initial training shall cover:

(a) *Client related training.* The administrator and all resident care staff shall successfully complete client related training in all of the following:

1. Resident rights.
2. Recognizing and responding to challenging behaviors.
3. Client group specific training. This training is specific to the client groups served by the CBRF and includes, but is not limited to, the characteristics of the client group served by the facility such as the group members' physical, social and mental health needs, specific medications or treatments needed by the residents, the program services needed by the residents, meeting the needs of persons with a dual diagnosis, and maintaining or increasing his or her social participation, self direction, self care and vocational abilities.

(b) *Need assessment of prospective residents and individualized service plan development.* The administrator and all employees who are expected to help with need assessment of prospective residents and individualized service plan development shall successfully complete training in need assessment of prospective residents and individualized service plan development.

(c) *Universal precautions.* The administrator, all resident care staff and all other employees who may be occupationally exposed to blood or any other potentially infectious material shall successfully complete training in the universal precautions to prevent the transmission of blood−borne infections and infections from any other potentially infectious material. This training shall occur prior to the employee assuming any job responsibilities which may occupationally expose him or her to blood or other potentially infectious material.

Note: OSHA standards require an employer to provide an annual training update in the prevention of blood−borne infections to all staff who may come in contact with the blood of a resident.

(d) *Fire safety, first aid and procedures to alleviate choking.* The administrator and all employees who work on the CBRF premises shall successfully complete training in fire safety, first aid and procedures to alleviate choking within 90 days after starting employment.

(2) INITIAL TRAINING IN DETERMINING DIETARY NEEDS, MENU PLANNING, FOOD PREPARATION AND SANITATION. The administrator and all employees responsible for determining dietary needs, menu planning and food preparation shall successfully complete 3 hours of training in determining dietary needs, menu planning, food preparation and sanitation. Current staff shall complete this training within 6 months after January 1, 1998 and new employees within 6 months after starting employment.

(3) INITIAL TRAINING IN MANAGEMENT AND ADMINISTRATION OF MEDICATIONS. (a) *Training when not supervised by a registered nurse or a pharmacist.* The administrator as well as any non−medically licensed staff member who will manage or administer medications packaged by a pharmacist under s. HFS 83.33 (3) (e) 4., and will not be under the supervision of a registered nurse or a pharmacist, shall successfully complete 8 hours of training in management and administration of medications. This training shall be completed before the administrator or staff member provides any help to residents with prescribed or over−the−counter medications.

(b) *Training when supervised by a registered nurse or a pharmacist.* The administrator as well as any non−medically licensed staff member who is supervised by a registered nurse or a pharmacist in the management and administration of medications may receive training in the management and administration of medications from the registered nurse or pharmacist. This training shall be completed before the administrator or staff member provides any help to residents with prescribed or over−the−counter medications. The content and length of training may be determined by the nurse or pharmacist. If the registered nurse or pharmacist does not provide this training, the administrator and staff member shall complete the training under par. (a).

(4) TRAINING PLAN BY CBRF. A CBRF may provide all or some of the required training for its staff. If it provides the training, the CBRF shall develop a plan for training which shall be approved by the department. For each area of training, the training plan shall include the content of the training, the knowledges, skills and attitudes to be achieved, the approximate length of time and the name and training qualifications of the person or persons who will do the training.

(5) TRAINING BY SOURCES NOT AFFILIATED WITH A CBRF. All training courses under subs. (1) to (3) which are developed or provided by sources not affiliated with a CBRF shall be approved by the department and shall incorporate and seek to achieve the knowledges, skills and attitudes identified by the department.

(6) EXEMPTIONS FROM TRAINING. (a) *General exemptions.* 1. The following employees are exempt from the training required under sub. (1) (a) in resident rights, recognizing and responding to challenging behaviors and client group specific training and sub. (1) (b) in assessing needs of prospective residents and developing individualized service plan.

a. The administrator and resident care staff who have at least 2 years of documented experience in their current or similar positions working with the client groups served by the facility.

b. A licensed nursing home administrator.

c. A registered nurse or licensed practical nurse.

d. An alcohol and drug counselor certified under s. HFS 75.03 (4) (d).

e. An alcohol counselor I registered with the Wisconsin alcohol and drug counselor certification board.

f. A home health aide listed on the registry under s. HFS 129.10.

g. A nurse assistant listed on the registry under s. HFS 129.10.

h. A person with a degree from an institution of higher education with a major in social work, psychology or a similar human services field.

2. The following employees are exempt from the training required under sub. (3) in management and administration of medications:

a. A registered nurse or a licensed practical nurse.

b. A medication aide who has completed training in a drug administration course approved by the department under s. HFS 132.60 (5) (d) 1.

3. Registered nurses and licensed practical nurses are exempt from the training required under sub. (1) (d) in first aid and procedures to alleviate choking.

4. Registered nurses and pharmacists whose responsibility in the CBRF is limited to supervision of the medication program under s. HFS 83.33 (3) (e) 3. are exempt from all of the training under this section.

5. Pharmacists and physicians whose responsibility in the CBRF is limited to the review of the medication regimen of residents under s. HFS 83.33 (3) (a) 2. are exempt from all of the training under this section.

(b) *Night time resident care staff.* Resident care staff who are in the facility only at night when residents are normally asleep are exempt from the training required under this section except for the following:

1. The training under sub. (1) (c) in the universal precautions and the training under sub. (1) (d) in fire safety, first aid and procedures to alleviate choking shall be successfully completed by all night time resident care staff.

2. When a resident needs continuous care or needs a service at regular intervals, the night time resident care staff shall, in addition to the training required under subd. 1., successfully complete the training required under sub. (1) (a) in resident rights and recognizing and responding to challenging behaviors and, if applicable to their responsibilities, the training under sub. (3) in management and administration of medications.

3. The licensee or administrator shall determine the areas of client group specific training under sub. (1) (a) 3. that are applicable to the responsibilities of the night time resident care staff and shall ensure that the training is provided.

(c) *Comparable compliance with universal precautions training.* Administrators, resident care staff and other employees who may be occupationally exposed to blood or any other potentially infectious material who can document that they have had training acceptable to the department in the practice of universal precautions shall be considered to have complied with the training requirement under sub. (1) (c).

(d) *Exemption for administrator.* An administrator is exempt from all of the following:

1. Training in determining dietary needs, menu planning, food preparation and sanitation under sub. (2) when the facility has a dietitian on its staff or under contract who has direct or supervisory responsibility for determining dietary needs, menu planning, food preparation and sanitation.

2. Training in management and administration of medications under sub. (3) when the facility has a registered nurse on its staff or under contract who has direct or supervisory responsibility for management and administration of resident medications.

(e) *Exemption for dietitian.* A dietitian is exempt from the training required under sub. (2) in determining residents' dietary needs, menu planning, food preparation and sanitation.

(f) *Exemption for employees providing transportation.* Employees whose sole responsibility is transporting residents are exempt from the training under this section except for all of the following:

1. Resident rights under sub. (1) (a) 1.

2. Recognizing and responding to challenging behaviors under sub. (1) (a) 2.

3. Universal precautions under sub. (1) (c).

4. First aid and procedures to alleviate choking under sub. (1) (d).

(g) *Deduction of exempted hours.* 1. When a facility does its own training in one or more of the required areas of training under subs. (1) to (3) using a department approved training plan under sub. (4), an employee exempted from any of the training may deduct from his or her total required hours of training the number of hours specified in the department−approved training plan for the training topic from which the employee is exempted.

2. When a facility does not do its own training in one or more of the required areas of training under subs. (1) to (3), an employee exempted from any of the training may deduct from his or her total required hours of training the number of hours of a department−approved course under sub. (5) which the employee would normally take from a training source not affiliated with the facility.

(7) ORIENTATION AND CONTINUING EDUCATION. (a) *Orientation.* Each employee of a CBRF shall receive orientation within 30 days after the starting date of employment in all of the following:

1. The employee's job responsibilities.

2. General administration, personnel policies and recordkeeping requirements.

3. Emergency plan and evacuation procedures under s. HFS 83.42 (3).

4. Resident rights for employees who are not required to take the resident rights training under sub. (1) (a) 1.

(b) *Continuing education.* Each administrator and each resident care staff employee of the CBRF shall receive at least 12 hours per calendar year of continuing education beginning with the second full calendar year of employment. Continuing education shall be relevant to their job responsibilities.

(8) DOCUMENTATION. All training, orientation and continuing education shall be documented by the licensee, administrator or designee in the employee's personnel file and signed by the employee at the time it is received.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−98; except (1) (d), eff. 8−1−96; correction in (6) (a) 1. d. made under s. 13.93 (2m) (b) 7., Stats., Register July 2001, No. 547.

HFS 83.15 Staffing patterns. (1) ADEQUATE STAFFING. (a) The ratio of staff to residents shall be adequate to meet the needs of the residents as defined in their assessments and individual service plans and for the type of facility.

(b) An administrator or other qualified staff person designated to be in charge of the facility shall be on the premises of the facility daily to ensure that safe and adequate care, treatment, services and supervision are being provided to residents.

(c) 1. At least one qualified resident care staff member shall be present in the facility when one or more residents are in the facility.

2. In a CBRF licensed for any of the 3 class C categories there shall be at least one qualified resident care staff person in the facility from 9 p.m. to 7 a.m. for every 20 residents who require a class C licensed facility. In a CBRF in which some but not all of the residents require a class C licensed facility, the minimum night−time staffing ratio of one qualified resident care staff person for every

20 residents applies only to the residents who require a class C licensed facility.

3. The licensee or administrator shall maintain an up−to−date list of all residents and the class of facility licensure needed by each resident. This list shall be available to the department.

(d) At least one qualified resident care staff shall be on duty in the CBRF and awake if at least one resident in need of continuous care is in the facility.

(e) At least one staff person shall be on duty in the CBRF and awake if the evacuation capability of at least one resident is 4 minutes or more.

(f) If the needs of a resident are limited to receiving a service at regular intervals during normal sleeping hours, such as help with a medication or turning, a staff person need not be constantly awake at night but shall provide the service at a frequency to meet the resident's needs.

(g) When all of the residents are away from the CBRF, at least one resident care staff member shall be on call to open the facility and provide staff coverage in the event a resident needs to return to the CBRF prior to the regularly scheduled return. A means of contacting the staff person on call shall be provided to each resident or to the program the resident is in when the staff person is away from the CBRF.

(2) WRITTEN STAFFING SCHEDULE. (a) The licensee shall maintain and have available for department review a current written schedule for staffing the facility. The schedule shall include the number of staff and their responsibilities which shall be sufficient to do all of the following:

1. Assess the needs of individual residents.

2. Meet the needs of individual residents through the provision of program services under s. HFS 83.33 and other services such as, but not limited to, meal preparation, housekeeping, maintenance and laundry.

3. Identify and provide the type and amount of assistance needed to assure the safety of the residents under Table 83.42 and s. HFS 83.42 (2) in the event of a fire.

4. Meet the requirements for adequate staffing under sub. (1).

(b) When one or more residents are temporarily unable to evacuate the facility by themselves in an emergency, such as a resident temporarily confined to bed, the staffing schedule shall be adjusted to ensure that staff are available to assist in the evacuation of the resident or residents.

(c) The licensee or administrator shall ensure that the number of staff on duty at any time of day or night, and their responsibilities, are consistent with the written staffing schedule.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−98; except (1) (a), eff. 8−1−96; (1) (g), eff. 1−1−97.

HFS 83.16 Admissions agreement. (1) SPECIFICATIONS. A CBRF shall have a written admissions agreement with each resident. The agreement shall be completed and signed before admission and within 5 days after an emergency admission. The agreement shall be dated and signed by the licensee or the licensee's representative and by the resident, the resident's guardian, agent or designated representative. A copy of the admissions agreement shall be offered to all parties who signed the agreement. The agreement shall specify all of the following:

(a) *Services.* The services to be provided by the facility to the resident which shall be based upon the resident's assessment under s. HFS 83.32 (1).

(b) *Rate.* The basic daily or monthly rate, and the charges for any services not covered in the rate.

(c) *Source of payment.* The source of payment and when the payment is to be made. If payment is by a third party, the agreement shall specify services available but not covered by the third party, and the charges for those services.

(d) *Security deposit.* The amount of the security deposit, if any, the types of charges that will be made against the security deposit and the condition for its return to the resident. The amount of security deposit shall not exceed one month's payment. The managing of security deposit funds shall be consistent with the requirements in s. HFS 83.17 (6).

(e) *Entrance fee.* The amount of the entrance fee, if any, and the services and length of stay to which the fee is applied. An entrance fee shall not be charged to a resident until the resident's initial individualized service plan is completed and signed by all parties under s. HFS 83.32 (3).

(f) *Bedhold fee.* The amount of any fee to hold a place for the resident in the CBRF while a resident is absent from the CBRF and the circumstances under which it will be charged.

(g) *Conditions for discharge or transfer.* The conditions for discharge or transfer of the resident which shall be consistent with the requirements under s. HFS 83.20. In this paragraph, "discharge" means that the person's residency in the CBRF has ended and the person will not be returning to the CBRF or the resident has died.

(h) *Refunds.* Conditions concerning refunds, as follows:

1. All prepaid fees shall be returned within 10 working days after the date of discharge. In this paragraph, "prepaid fees" means fees paid to a facility for service beyond 30 days.

2. The payment for services for the month in which discharge occurs shall be prorated to the date of discharge. The balance shall be returned to the former resident, or that person's guardian, agent or designated representative, within 10 working days after the date of discharge, except as provided in subds. 3. and 4.

3. The CBRF may hold up to one half of one month's payment for no more than 30 days after discharge if the licensee or administrator anticipates that the resident may have incurred expenses for which the facility will be held financially responsible. The CBRF shall give a full accounting to the resident or the resident's guardian, agent or designated representative of any money used from this fund.

4. The payment for services for the month in which discharge occurs may be kept by the CBRF only when a resident permanently leaves the facility without giving proper notice as specified in the admissions agreement. The monthly payment may be kept to the end of the month in which discharge occurs, not to exceed 30 days after discharge. If the bed is filled before the end of the month of discharge, the amount refunded shall be prorated from the date the bed is filled.

5. a. Except for a continuing care retirement community which enters into a continuing care contract with a resident under s. 647.05, Stats., the entire entrance fee shall be fully refunded during the first 6 months following the date of initial admission when the resident is discharged or gives proper notice, as specified in the admissions agreement, that he or she intends to permanently leave the facility during that period of time. If a resident is discharged or permanently leaves the CBRF following proper notice during months 7 through 12 following the date of initial admission, the amount of the entrance fee to be refunded shall be reduced by one seventh per month so that if the discharge or leaving is during the twelfth month one−seventh of the original amount of the entrance fee shall be refunded.

Note: The following schedule is to assist in calculating the amount of the refund of a resident's entrance fee when the resident is discharged or permanently leaves the facility following proper notice during months 7 through 12 following the date of initial admission:

1. Six−sevenths of the original amount of the entrance fee during month 7.
2. Five−sevenths of the original amount of the entrance fee during month 8.
3. Four−sevenths of the original amount of the entrance fee during month 9.
4. Three−sevenths of the original amount of the entrance fee during month 10.
5. Two−sevenths of the original amount of the entrance fee during month 11.
6. One−seventh of the original amount of the entrance fee during month 12.

b. A CBRF may refund a greater amount of the entrance fee and may do so over a longer period of time than is specified under subd. 5. a.

c. The amount of the entrance fee to be refunded shall be refunded within 10 working days after the date of discharge or the

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http://docs.legis.wisconsin.gov/code/admin_code

date the resident permanently leaves the facility after giving proper notice as specified in the admissions agreement.

(2) RESPITE CARE RESIDENTS. An admissions agreement for a respite care resident shall cover the requirements under sub. (1) (a) to (d), (g) and (h). The admissions agreement shall be dated and signed within 48 hours after admission by the licensee or the licensee's representative and the respite care resident or that person's guardian, agent or designated representative and the respite care resident's primary care provider.

(3) RESTRICTIONS. No provision of any admissions agreement may:

(a) Be contrary to this chapter.

(b) Purport to release the licensee from any requirement of this chapter.

(c) Purport to waive any right guaranteed to residents by law.

(d) Mislead the resident as to the resident's legal rights and responsibilities.

(4) ABILITY TO PAY. (a) As part of the admissions agreement, the CBRF shall obtain the signature of a prospective private pay resident or of that person's guardian, agent or designated representative on a statement which identifies the estimated cost of care for the resident and what the estimated cost will be for the resident, at that rate, for 3 years of stay in the CBRF. The prospective private pay resident, or that person's guardian, agent or designated representative shall indicate the number of years, one to 3, which most closely identifies the period of time for which the private pay resident will have sufficient funds to pay for the cost of care, or whether he or she has sufficient funds for more than 3 years of stay in the CBRF. The CBRF may include a statement in its admissions agreement that this estimate does not constitute a contract between the facility and the prospective resident.

(b) When the prospective private pay resident or that person's guardian, agent or designated representative indicates that there are sufficient funds to pay for the cost of care for 3 or fewer years, a copy of the completed and signed statement shall be forwarded, within 30 days after admission, to the county agency which has requested the statements. The department shall provide the form and the facility shall identify the prospective resident's full monthly cost of care and, based on that rate, the estimated cost of care for each of the first 3 years of stay in the CBRF.

(5) NOTICE TO PRIVATE PAY RESIDENTS ABOUT LIMITATIONS OF PUBLIC FUNDING. Prior to admission the CBRF shall give written notice to each prospective private pay resident, that person's family and legal guardian, agent or designated representative which clearly states that if the resident's ability to pay for the cost of care becomes exhausted, the resident may not be eligible for funding from public sources. The notice shall specify that if that happens the resident may be asked to leave the CBRF. The notice may state that the resident and the resident's family, legal guardian, agent or designated representative may be requested to participate in finding alternative care.

(6) NOTICE OF AVAILABILITY OF THIS CHAPTER AND THE RESULTS OF DEPARTMENT LICENSE RENEWAL VISITS, MONITORING VISITS AND COMPLAINT INVESTIGATIONS. The admissions agreement shall include a written notice that, upon request, the results of all department license renewal visits, monitoring visits and complaint investigations, if any, for the period of 12 months preceding the request, and a copy of this chapter are available for review.

(7) RELEASE OF INFORMATION. Prior to admission or within 5 days after an emergency admission, the facility shall determine with whom it will need to communicate regarding the health, safety, welfare and rights of a resident and who it will notify of changes under s. HFS 83.19 (1) and (2), and shall attempt to obtain the needed releases of information from the resident or the resident's guardian or agent. Authorization for release of information shall be obtained prior to admission for the pre−admission assessment under s. HFS 83.32 (1). Authorization for release of information shall be obtained within 30 days after admission for access to the resident's record under s. HFS 83.18 (1), notice of change affecting the resident under s. HFS 83.19 (1) or (2) and any other action for which prior authorization by the resident or the resident's guardian or agent is needed.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−97.

HFS 83.17 Resident funds. **(1)** AUTHORIZATION. Except for correctional clients, a CBRF may not obtain, hold, or spend a resident's funds without written authorization from the resident or the resident's guardian, agent or designated representative. Authorization may be limited or revoked at any time by a written statement which shall specify the effective date of the limitation or revocation.

(2) SEPARATION OF RESIDENT FUNDS. Any resident's funds held or controlled by the CBRF, and any earnings from them, shall be credited to the resident and may be co−mingled with the funds of other residents but shall not be co−mingled with the funds or property of the facility, the licensee or staff or relatives of the licensee or staff. This section does not apply to security deposits.

(3) HOLDING RESIDENT FUNDS. (a) 1. A CBRF may, upon written authorization from a resident or the resident's guardian, agent or designated representative, hold not more than $200 cash of a resident as petty cash for use by that resident.

2. Every CBRF shall have a legible, accurate accounting procedure for keeping track of a resident's petty cash. The accounting procedure shall include a record of all payments, disbursements and deposits made on behalf of the resident. Payments in excess of $20.00 shall be accompanied by documentation of the payment.

3. The CBRF shall provide a written report of the resident's account to the resident or the resident's guardian, agent or designated representative at least every 6 months or as provided under s. 50.09 (1) (c), Stats.

(b) 1. A CBRF which receives more than $200 of personal funds from a resident, except for funds submitted as payment to the CBRF for expenses due, shall deposit the funds in a savings institution, in an interest−bearing account in the name of the resident insured by an agency of, or a corporation chartered by, the state of Wisconsin or the United States.

2. Account statements and other information or correspondence issued by the savings institution shall be provided to the resident or the resident's guardian, agent or designated representative.

3. The CBRF shall promptly carry out any action on the account which is directed by a written limitation or revocation of the CBRF's authorization to obtain, hold, or spend the resident's funds.

(4) FINAL ACCOUNTING. Within 10 days after discharge, or 30 days for resident funds retained under s. HFS 83.16 (1) (h) 3., the CBRF shall provide a written final accounting of its handling of a resident's funds to the resident or the resident's guardian, agent or designated representative.

(5) PROPERTY AND GIFTS. No CBRF licensee, administrator or employee may sell real or personal property to a resident or prospective resident or purchase, borrow or accept money for real or personal property from a resident or prospective resident. This paragraph does not apply to payments owed the CBRF for services provided, to gifts offered by the resident on festive occasions, and to donations made to the CBRF or its employees with the knowledge of the resident's guardian, agent or designated representative.

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

(b) The security deposit account shall be separate from other funds of the facility.

(c) The interest shall be at the actual interest earned, and shall be paid upon discharge of the resident to the person who made the security deposit.

(7) TRANSFER OF FINANCIAL RESPONSIBILITY. (a) Whenever ownership of a facility is transferred from one licensee to another licensee, the transferor shall:

1. Notify the transferee of any financial relationships between the transferor and residents.

2. Notify each resident, where a financial responsibility exists, of the pending transfer.

(b) A resident shall have the option of continuing or discontinuing the resident's financial relationship with the new licensee.

(8) AUDIT. (a) The department may require an audit of a CBRF when, based on evidence, there is reason to believe resident funds have been mismanaged.

(b) The audit shall be completed by a certified public accountant.

(c) The cost of the audit shall be paid by the licensee.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−97.

HFS 83.18 Resident record. (1) GENERAL REQUIREMENTS. (a) A CBRF shall maintain a record for each resident.

(b) Access to a resident's record shall be restricted to the resident, the resident's guardian, agent, the designated representative if authorized in writing by the resident, employees directly involved with the resident, authorized representatives of the department, third party payers, other persons authorized in writing by the resident or the resident's guardian or agent or as otherwise permitted by law. Third party payer access to records of a resident who has a developmental disability, is emotionally disturbed or has a mental illness, or is alcoholic or drug dependent, is governed by s. 51.30 (4) (b) 2., Stats.

(c) The CBRF shall inform the resident or the resident's guardian or agent upon admission that the resident's record is available to the resident or the resident's guardian or agent for his or her review upon request. Copies of the record shall be made available to a resident or the resident's guardian or agent on request or to a designated representative if authorized in writing by the resident, at a cost no greater than the cost of reproduction.

(d) A resident's record shall include all of the following:

1. Identification information and admission data, including:

a. Resident's full name, sex, date of birth and social security number.

b. Home address or last known address.

c. Name, address and telephone number of nearest kin, designated representative and guardian, if any.

d. Medical, social and, when applicable, psychiatric history.

e. Current personal physician, if any.

f. A copy of any notice of change affecting the resident under s. HFS 83.19 and a description of any resolution of change affecting the resident under s. HFS 83.19 (1) (b) or (c).

2. Results of initial and subsequent health assessments or medical examinations, the admissions agreement under s. HFS 83.16, the evaluation for evacuation limitations under s. HFS 83.42 (2), significant incident and illness reports under s. HFS 83.19 (3), the assessment report, the resident's individualized service plan, the evaluations and reviews under s. HFS 83.32 (2) (c) and (d), discharge papers, department−approved use of a physical restraint and a summary of any grievances filed by the resident with the facility.

3. Copies of the plan of care under s. HFS 83.34 (3) for a terminally ill resident and all physician's orders.

4. A description of any behavior patterns of the resident which are or may be harmful to the resident or other persons.

Note: See note under s. HFS 83.32 (2) (a) 5. for examples of potentially harmful behavior patterns.

(2) INFORMATION TO BE PROVIDED AT TIME OF TRANSFER OR DISCHARGE. (a) At the time of transfer or discharge of a resident from a CBRF, the CBRF shall inform the resident and the resident's guardian, agent or designated representative that all of the following information is available upon request.

1. The name and address of the CBRF, the dates of admission and discharge or transfer from the CBRF, and the name and address of a person to contact for additional information.

2. Names and addresses of the resident's physician, dentist and other medical care providers.

3. Names and addresses of the resident's relatives, guardian, agent or designated representative who should be contacted regarding care or services to be provided to the resident, or in case of emergency.

4. Names and addresses of the resident's significant social or community contacts.

5. The resident's assessment and individualized service plan, or a summary of each.

6. The resident's current medications and dietary, nursing, physical and mental health needs if not included in the assessment or individualized service plan.

7. A statement of the resident's ambulatory status related to the classes of CBRFs under s. HFS 83.05 (2), the resident's evacuation capability under Table 83.42 and, where applicable, the need for an alternate emergency plan under s. HFS 83.42 (4).

8. The reason for the resident's transfer or discharge.

9. A description of how the resident and the resident's guardian, agent or designated representative was involved in discharge planning and a summary of the options discussed.

(b) If a resident being transferred or discharged or the resident's guardian, agent or designated representative, or the resident's new place of residence, requests information under par. (a) the CBRF shall provide that information in writing. The CBRF may require the resident or the resident's guardian, agent or designated representative to pay for any costs of reproduction.

(3) SAFEGUARDING OF RECORDS. The licensee shall ensure that all resident records are adequately safeguarded against destruction, loss or unauthorized access or use.

(4) RETENTION. The licensee shall retain a resident's record for at least 7 years after the resident's discharge pursuant to s. HFS 92.12 for persons who have a developmental disability, are emotionally disturbed or have a mental illness or are alcoholic or drug dependent, and for at least 5 years after discharge for all other residents. The record shall be kept in a secure, dry place. The information in the record shall be kept confidential. The record shall be available to the resident, the resident's guardian, agent or designated representative and the department upon request.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−97.

HFS 83.19 Notification of changes and reporting of incidents. (1) CHANGE AFFECTING A RESIDENT. (a) *Parties to be notified.* A CBRF shall provide written notice to a resident, the resident's guardian and the resident's designated representative or agent of any change or occurrence under pars. (b) to (e) that affects the resident. If the change or occurrence is relevant to a provided or purchased service, notice shall be given to any professional responsible for the resident's care, the resident's physician, any contract agency and any third party payer.

(b) *Transfer or discharge.* A 30−day written notice shall be given in advance of transfer or discharge, except an emergency discharge. A resident shall not be involuntarily transferred to another room within the CBRF except when a resident's safety would be jeopardized by not transferring the resident to another room.

(c) *Service availability and fees.* A 30−day written notice shall be given of any change in services available or in charges for services that are to be in effect for more than 30 days.

(d) *Physical or mental condition.* Immediate notice shall be given to a resident's physician as well as to the persons listed in par. (a) when there is an injury to the resident or a significant adverse change in the resident's physical or mental condition.

(e) *Abuse or misappropriation of property.* 1. Immediate notice shall be given to the persons listed in par. (a) when physical, sexual or mental abuse of a resident is alleged. Notice to persons listed in par. (a) shall be given within 72 hours when misappropriation of property is alleged, unless the alleged misappropriation of property is likely to cause a significant adverse change in condition whereupon notice under par. (a) shall be immediate.

2. A report of physical, sexual or mental abuse of a resident or misappropriation of the resident's property shall include time, place, details of the occurrence and action taken by the provider including arranging for services from an outside provider.

Note: Providing notice under this paragraph does not relieve the licensee or other person of the obligation to report an incident to other authorities, including law enforcement.

(2) DEATH OF A RESIDENT. (a) *Definition.* In this subsection, "physical restraint" means any of the following:

1. Confinement in a locked room.

2. A device or garment that interferes with a resident's freedom of movement and that the resident is unable to remove easily.

3. Restraint by a facility staff member of a resident by use of physical force.

(b) *Death reporting related to use of a restraint, psychotropic medication or suicide.* Upon the death of a resident, the facility shall report the death to the department as required under s. 50.035 (5), Stats., within 24 hours after it occurs 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.

(c) *Death reporting not related to use of a restraint, psychotropic medication or suicide.* When a resident dies as a result of an incident or accident not related to the use of a physical restraint or psychotropic medication, and the death was not a suicide, the facility shall send a report to the department within 3 working days. In addition, the facility shall:

1. Immediately notify the resident's physician, family member designated on the admissions form, guardian, agent and designated representative.

2. Record the date, time and circumstances of the resident's death in the resident's record, including the name of the person to whom the body is released.

Note: Deaths not to be reported to the department are those resulting from natural causes, such as a heart attack, a stroke or an illness, when none of the circumstances in par. (b) or (c) were involved.

Note: Providing notice under this subsection does not relieve the licensee or other person of any obligation to report an incident to any other authority, including law enforcement.

(3) INCIDENTS. A facility shall send a report to the department within 3 working days after any of the following incidents occurs:

(a) A fire on the premises of the CBRF.

(b) When the licensee, administrator, an employee or a resident contracts a communicable disease required to be reported under ch. HFS 145.

(c) When there is an allegation of physical or mental abuse or misappropriation of the property of a resident pursuant to sub. (1) (e), the facility shall investigate the allegation and report to the department incidents where there is a probable cause that they occurred. All allegations reported to the facility shall be investigated by the facility and each report shall be in the resident's file and be available to the department.

(d) When a resident's whereabouts is unknown and he or she is considered missing, and the resident is considered to be in danger. The local law enforcement authority shall be notified as soon as this determination is made. The CBRF shall notify the department within 3 working days after notification of the law enforcement authority. This subdivision does not apply to CBRFs serving clients of a governmental corrections agency or persons recovering from substance abuse.

(e) At any time the police are called to the facility as a result of actions or incidents which seriously jeopardize the health, safety or welfare of residents or staff. A description of the circumstances which required police intervention shall be provided to the department. This subdivision does not apply to CBRFs serving clients of a governmental corrections agency.

(f) When an accident occurs resulting in serious injury requiring inpatient hospitalization of a resident.

(g) When a catastrophe occurs resulting in damage to the facility.

Note: Providing notice under this subsection does not relieve the licensee or other person of any obligation to report an incident to any other authority, including law enforcement.

(4) REPORT DRAFTER.. A report under sub. (2) or (3) shall be written or contributed to by the staff person who observed or first discovered the incident.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−97; correction in (2) (c) made under s. 13.93 (2m) (b) 1., Stats., Register, October, 1999, No. 526.

HFS 83.20 Discharge or transfer of resident. **(1)** APPLICABILITY. (a) This section applies to all resident discharges and transfers except for persons in respite care.

(b) A resident temporarily transferred to a hospital or nursing home for treatment not available from the CBRF shall not be involuntarily discharged from the CBRF when the resident's absence is for 21 days or less.

(2) CONDITIONS. (a) *Initiated by resident.* 1. Any competent resident who is not in the custody of a governmental correctional agency or committed pursuant to s. 51.20, Stats., or under a court−ordered protective placement under s. 55.06, Stats., may initiate transfer or discharge from the facility at any time in accordance with the terms of the admissions agreement.

2. If a newly admitted resident who has been found incompetent under s. 880.33, Stats., protests the admission, the licensee or designee shall notify the guardian and the county protective services agency within 72 hours to obtain a determination about whether to discharge the resident under s. 55.05 (5) (c), Stats.

(b) *Initiated by CBRF.* 1. Except as provided in subd. 2., before a CBRF transfers or discharges a resident, the licensee shall give a 30 day written advance notice to the resident or the resident's guardian, designated representative or agent. The licensee shall provide to the resident or the resident's guardian, designated representative or agent an explanation of the need for or possible alternatives to the transfer or discharge, and shall provide assistance in relocating the resident. A living arrangement suitable to meet the needs of the resident shall be located prior to the transfer of the resident.

2. The notice requirement under subd. 1. does not apply:

a. To CBRFs serving correctional clients.

b. During the first 30 days following initial placement.

c. In the event of an emergency discharge. Notice of emergency discharge shall be given as soon as feasible after the need for discharge arises.

(c) *Prohibitions and exceptions.* Except as provided under s. 50.03 (5m), Stats., no resident may be involuntarily discharged or transferred from a CBRF except for any of the following:

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

2. The resident requires care other than that which the facility is licensed to provide.

3. The resident requires care which is inconsistent with the facility's program statement and which the facility is not required to provide under this chapter.

4. A plan of treatment or services established with the resident and his or her guardian, agent or designated representative at the time of admission, as documented in the resident's individualized service plan, is completed and the resident can no longer benefit from remaining in the CBRF.

5. Medical reasons as ordered by a physician.

6. A medical emergency or disaster.

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

8. The short−term care period for which the resident was admitted has expired.

9. The admissions agreement contains a specific condition which, if violated, may be a cause for immediate discharge, and the resident violates that condition.

10. As otherwise permitted by law.

(d) *Department review of discharge or transfer.* 1. A resident or his or her guardian, agent or designated representative may request the department to review an involuntary discharge or transfer decision. Every notice of discharge or transfer under par. (b) to a resident or the resident's guardian, agent or designated representative shall be in writing and include all of the following:

a. A statement that the resident or his or her guardian, agent or designated representative may request the department to review any notice of involuntary discharge or transfer to determine if the discharge or transfer is in compliance with the provisions of this chapter and ch. 50 or 51, Stats. The statement shall include the list of prohibitions and exceptions under par. (c).

b. The name, address and telephone number of the department's division of community services' regional office which licenses the CBRF and the name of the regulation and licensing chief for that office.

2. If the resident or his or her guardian, agent or designated representative wants the department to review the discharge or transfer, that person shall send a letter to the department's division of community services' regional office that licenses the CBRF asking for a review of the decision and explaining why the discharge or transfer should not take place. The written request shall be postmarked no later then 7 days after receiving a notice of discharge or transfer from the CBRF. The resident or his or her guardian, agent or designated representative shall send a copy of the letter to the facility administrator at the same time he or she sends the letter to the department. If a timely request is sent to the department, the resident shall not be discharged or transferred from the CBRF until the department has completed its review of the decision and notified the resident or his or her guardian, agent or designated representative and the facility of its conclusion.

3. Within 5 days after receiving a copy of a request for review, the facility may provide written justification to the department's division of community services' regional office for the discharge or transfer of the resident.

4. The department shall complete its review of the facility's decision and notify the resident or his or her guardian, agent or designated representative and the facility, in writing, of its conclusion within 14 days after receiving written justification for the discharge or transfer from the facility.

5. The review procedures in this paragraph do not apply if the continued presence of the resident poses a risk of imminent serious harm to the health or safety of the resident, other residents or staff.

Note: See Appendix A for the addresses and phone numbers of the Department's Division of Disability and Elder Services regional offices.

(e) *Prohibition of coercion and retaliation.* Any form of coercion to discourage or prevent a resident or his or her guardian, agent or designated representative from requesting a department review of any notice of involuntary discharge or transfer is prohibited. Any form of retaliation against a resident or his or her guardian, agent or designated representative for requesting a department review, or against an employee who assists a resident or his or her guardian, agent or designated representative in submitting a request for department review or otherwise providing assistance with a request for review, is prohibited.

(f) *Removal or disposal of resident's belongings.* The belongings of a resident who is discharged or transferred shall be moved with the resident or disposed of pursuant to law unless the resident wishes to make other arrangements for their removal within 30 days after discharge. This paragraph does not apply to a resident who is under the legal custody of a governmental correctional agency or under the legal jurisdiction of a criminal court who absconds from the CBRF and for whom there is an apprehension order, or who has requested a department review of his or her discharge under par. (d) until the department has completed its review.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−97; correction in (2) (a) 2. made under s. 13.93 (2m) (b) 7., Stats., Register, October, 1999, No. 526.

Subchapter III — Resident Rights

HFS 83.21 Rights of residents. (1) LEGAL RIGHTS. (a) Section 50.09, Stats., establishes specific rights of CBRF residents and prescribes mechanisms to resolve complaints and to hold the CBRF licensee accountable for violating those rights. Other statutes, such as s. 51.61, Stats., and chs. 55, 304, and 880, 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 being received by the resident. The licensee shall comply with all related statutes and rules.

(b) The licensee shall protect the civil rights of residents as these rights are defined in the U.S. 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 relevant federal and state statutes.

(2) EXPLANATION OF RESIDENT RIGHTS AND HOUSE RULES. (a) Before or at the time of admission, the CBRF staff shall explain resident rights, the grievance procedure under sub. (5) and the house rules of the facility to the person being admitted, that person's guardian, or agent, family members when involved in the placement, and any designated representative of the person, except that when an admission is being made on an emergency basis the explanation of resident rights, grievance procedure and house rules may be done within 5 days after admission. The resident or the resident's guardian or agent shall sign a statement to acknowledge having received an explanation of resident rights.

(b) Before the admissions agreement is signed or at the time of admission, whichever comes first, the licensee shall provide copies of the house rules and resident rights to the resident, and to the resident's guardian, agent or the resident's designated representative.

(c) Copies of the house rules and resident rights shall be posted in each facility in a prominent public place accessible to residents, staff and guests.

(3) CORRECTIONAL CLIENTS. The rights established under sub. (4) do not apply to a resident in the legal custody of the department of corrections except as determined by the department of corrections.

(4) RIGHTS OF RESIDENTS. Individuals have basic rights which they do not lose when they enter a CBRF. Any form of coercion to discourage or prevent a resident or his or her guardian or designated representative from exercising any of the rights under this subchapter is prohibited. Any form of retaliation against a resident or his or her guardian, agent or designated representative for exercising any of the rights in this subchapter, or against an employee

who assists a resident or his or her guardian, agent or designated representative to exercise any of the resident right in this subchapter, is prohibited. Except as provided under sub. (3), each resident shall have all of the following rights:

(a) *Copies of rights and house rules.* To receive from the facility, before admission, a copy of the rights established under this section and a copy of the rules of the facility. Copies shall also be offered to the resident's guardian, agent or designated representative, prior to the person's admission.

(b) *Mail.* To receive and send sealed, unopened mail, including packages. Correspondence of residents with legal counsel, the courts, governmental officials, the department, private physicians or licensed psychologists shall not be opened by staff. As a condition of receipt of correspondence believed to contain contraband, the CBRF may require that the correspondence be opened by the resident in the presence of staff. The evidence shall be documented in the resident's file. Mail which cannot be delivered immediately shall be held securely by the CBRF until it can be delivered to the resident. Any resident who is without available funds and is not expected to receive additional funds for at least 3 days shall, upon request, be provided with up to 2 stamped non−letterhead envelopes each week and with a sufficient supply of non−letterhead stationery and other letter−writing materials to meet the resident's writing needs.

(c) *Telephone calls.* To make and receive telephone calls within reasonable limits and in privacy. The facility shall provide at least one non−pay telephone to which the resident's have access and may require that long distance calls be made at the resident's own expense. Any resident who is without available funds and is not expected to receive additional funds for at least 3 days shall be permitted to make at least one long distance telephone call without charge to an attorney, the department or another source of help such as the resident's guardian, designated representative, a family member, a psychiatrist, a psychologist, a licensed therapist or a counselor.

(d) *Visits.* To have private visitors and adequate time and private space for visits.

(e) *Financial affairs.* To manage the resident's own financial affairs, as provided in s. 50.09 (1) (c), Stats.

Note: See s. HFS 83.17 for the duties of a CBRF which accepts responsibility to manage a resident's funds.

(f) *Service charges.* To be fully informed in writing before or at the time of admission of all services and charges for the services. Throughout the time a person is a resident of a facility, to be fully informed in writing of any changes in service and related charges.

(g) *Fair treatment.* To be treated with courtesy, respect and full recognition of the resident's dignity and individuality by all employees of the facility.

(h) *Privacy.* To have physical and emotional privacy in treatment, living arrangements and in caring for personal needs. Persons not directly providing care and treatment or participating in group sessions shall not be present during such care and treatment except with the express spoken or written consent of the resident. Privacy in toileting and bathing shall be provided. The resident's room, any other area in which the resident has a reasonable expectation of privacy, and the personal belongings of a resident shall not be searched without his or her permission, or permission of the guardian, except when there is a reasonable cause to believe that the resident possesses contraband. The resident has the right to be present for the room search.

(i) *Confidentiality.* 1. To have all treatment records kept confidential. The resident or his or her guardian, agent or designated representative may inspect, copy and challenge the accuracy of the resident's records. For the purpose of coordinating care and services to a terminally ill resident, the licensed hospice program or home health care agency which is the primary care provider under s. HFS 83.34 (2) (a), shall have access to the resident's treatment records. For purposes of licensing and administration, staff of the department or the licensee may access resident treatment records without the resident's consent, but may not disclose the information except as permitted by law. Case discussion among staff shall be conducted discreetly, and staff shall not disclose treatment information about one resident to another resident.

2. The facility shall comply with 42 CFR Part 2 if the resident is in the CBRF because of alcohol or other drug abuse, and with s. 51.30, Stats., and ch. HFS 92 if the resident is in the CBRF because of mental illness, developmental disability, or alcohol or other drug abuse. Written informed consent shall be obtained from the resident or the resident's guardian for all other disclosures.

Note: Section 51.30 (4) (b) 5 and 15, Stats., permits sharing of limited information in certain circumstances between the department and a county department established under s. 46.215, 46.22, 51.42 or 51.437, Stats.

(j) *Labor.* To not be required by the facility to perform labor which is of any financial benefit to the facility. Personal housekeeping is an exception and may be required of the resident without compensation if it is for therapeutic purposes and is part of the resident's individualized service plan. This responsibility shall be clearly identified in the house rules of the facility.

(k) *Activity choice.* To meet with and participate in the activities of social, religious and community groups at the resident's discretion.

(L) *Clothing and possessions.* To retain and use personal clothing and effects and to retain, as space permits, other personal possessions in a reasonably secure manner.

(m) *Abuse.* To be free from physical, sexual and mental abuse and neglect, and from financial exploitation and misappropriation of property.

(n) *Seclusion, restraints.* 1. In this paragraph:

a. "Chemical restraint" means a psychopharmacologic drug that is used for discipline or convenience and not required to treat medical symptoms.

b. "Seclusion" means physical or social separation from others by actions of staff but does not include separation in order to prevent the spread of a communicable disease or cool down periods in an unlocked room as long as presence in the room by the resident is voluntary.

c. "Physical restraint" means any manual method or any article, device, or garment interfering with the free movement of the resident or the normal functioning of a portion of the body or normal access to a portion of the body, and which the individual is unable to remove easily, or confinement in a locked room.

2. To be free from seclusion.

3. To be free from all chemical restraints, including the use of an as−necessary (PRN) order for controlling acute, episodic behavior. The use of a chemical restraint for a terminally ill resident who is under the care of a hospice program or a home health agency under s. HFS 83.34 (2) (a) shall be governed by the applicable provisions in ch. HFS 131 for hospice programs or ch. HFS 133 for home health agencies.

4. a. To be free from physical restraints except upon prior review and approval by the department and upon written authorization from the resident's primary physician. The department may place conditions on the use of a restraint to protect the health, safety, welfare and rights of the resident.

b. Upon approval to use a physical restraint under subd. 4. a., only resident care staff trained in the proper use of the restraint may apply the restraint to the resident. Staff trained in the proper use of the restraint shall check the physically restrained resident according to conditions specified by the department on the use of a restraint.

c. Any use of a physical restraint approved under subd. 4. a., shall be recorded, dated and signed in the resident's record. A record shall be kept of the periodic checking required under subd. 4. b. on a resident in a restraint and of any adjustments to the

restraint made by resident care staff, any adverse affects on the resident from the restraint and any complaints from the resident.

(o) *Medication.* To receive all prescribed medications in the dosage and at the intervals prescribed by the resident's physician, while being free from unnecessary or excessive medication and the use of medication as punishment, for the convenience of staff, as a substitute for treatment or in quantities that interfere with treatment. The resident has the right to refuse medication unless there has been a court finding of incompetency. Medication shall not be forcibly administered unless there is an appropriate court order.

(p) *Prompt and adequate treatment.* To receive prompt and adequate treatment appropriate to the resident's needs.

(q) *Choice of providers.* To exercise complete choice of providers of physical and mental health care, and of pharmacist.

(r) *Treatment choice.* To receive all treatments prescribed by the resident's practitioner, and to refuse any form of treatment unless the treatment has been ordered by a court. The written informed consent of the resident or the resident's guardian or agent is required for any treatment administered by the CBRF. General non−intrusive treatments typically provided by the CBRF may be provided to the resident under a written general informed consent agreement.

(s) *Religion.* To be permitted to participate in religious activities of his or her choice, to entertain visits from a clergy person or lay representative of his or her choice, and to obtain the help of staff, if needed, to contact such clergy person or lay representative. No resident may be required to engage in any religious activities.

(t) *Incompetency.* To not be treated as mentally incompetent unless there was a court determination under ch. 880, Stats. A resident who has been adjudicated incompetent has a right to have his or her guardian fully informed and involved in all aspects of his or her relationship to the CBRF. The guardian may exercise any and all rights to consent or refuse which the resident is granted under this section. A resident who has been adjudicated incompetent shall be allowed decision−making participation to the extent possible as agreed to by the guardian and facility.

(u) *Least restrictive conditions.* To have the least restrictive conditions necessary to achieve the purposes of admission to the CBRF. Each CBRF shall help any resident who appears to be ready for more independent living to contact any agencies needed to arrange for it. No curfew, rule or other restriction on a resident's freedom of choice shall be imposed.

(v) *Recording, filming, photographing.* To not be recorded, filmed or photographed for promotional or advertising purposes without his or her written, informed consent. A photograph may be taken 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.

(w) *Safe environment.* To live in a safe environment. The CBRF shall safeguard residents who cannot fully guard themselves from an environmental hazard to which it is likely that they will be exposed, including both conditions which would be hazardous to anyone, and conditions which are hazardous to the resident because of the resident's condition or handicap.

(5) GRIEVANCE PROCEDURE. (a) *Requirement.* All CBRFs shall have a written grievance procedure and shall provide a copy to each resident and the resident's guardian or agent. The grievance procedure shall specify all of the following:

1. Any resident or the resident's guardian or agent or designated representative may file a grievance with the facility, the department, the resident's case manager, if any, the state board on aging and long term care, the Wisconsin coalition for advocacy for persons with mental or physical disabilities, or any other organization providing advocacy assistance. The resident or the resident's guardian, agent or designated representative shall have the right to advocate assistance throughout the grievance procedure. The written grievance procedure shall include the name, address and phone number of organizations providing advocacy assistance for the client groups served by the facility, and the name, address and phone number of the department's regional office that licenses the facility.

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

3. Any form of coercion to discourage or prevent a resident from filing a grievance or in retaliation for having filed a grievance is prohibited. Any form of coercion or retaliation against an employee who assists a resident in filing a grievance or otherwise obtaining assistance or referral for a grievance is prohibited.

4. If the grievance is filed with the facility and the resident believes the grievance is not resolved within 15 days after filing, the resident may file the grievance with the CBRF's corporate office, if any, with the department, the resident's case manager, if any, the state board on aging and long term care or, for mentally or physically handicapped persons, the Wisconsin coalition for advocacy, or any other organization providing advocacy assistance.

5. A written summary of the grievance, the findings and the conclusions and any action taken shall be provided to the resident or the resident's guardian, agent or designated representative and the resident's case manager, if any, and shall be inserted in the resident's record.

6. If a resident is 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., or a county department of developmental disabilities services under s. 51.437, Stats., the county grievance procedure under s. HFS 94.29, shall be used.

(b) *Assistance and referral.* A CBRF shall assist its residents as needed with the resident grievance procedure and provide access to a resident's case manager, if any, the department, advocacy organizations and the court on matters having to do with residence in the CBRF, treatment by the facility, the resident's legal status and the resident's disability. Assistance shall include finding and giving information about service agencies, helping residents express their grievances and appeals and finding an attorney.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−97.

Subchapter IV — Service Requirements

HFS 83.31 General requirements. (1) A CBRF shall provide to a resident needed program services identified in the resident's individualized service plan under s. HFS 83.32 (2) either directly or by written agreement with other agencies or persons unless otherwise arranged by the resident or the resident's guardian.

(2) Services shall be planned and delivered in a place, manner and under arrangements that will achieve and maintain the maximum level of independent functioning for each resident.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−97.

HFS 83.32 Assessment and individualized service plan. (1) ASSESSMENT. (a) Each person admitted to a CBRF, except a person admitted for respite care, shall be assessed by the CBRF before admission to identify the person's needs and abilities in all areas listed in sub. (2) (a). For an emergency admission made by a county agency, the CBRF shall attempt to obtain the resident's assessment information from the county agency within 5 days after admission.

(b) The assessment shall be based upon the current diagnostic, medical and social history obtained from the person's health care providers, case manager and other service providers, and a face−

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http://docs.legis.wisconsin.gov/code/admin_code

to−face interview by the licensee, administrator or licensee's or administrator's designee with the person and his or her guardian or agent, if any, to determine what the person views as his or her needs, abilities and interests, and what his or her expectations are from the CBRF. A written report of the results of the assessment shall be prepared and retained in the resident's record.

Note: Other service providers may be a psychiatrist, psychologist, a licensed therapist, counselor, occupational therapist, physical therapist, pharmacist or registered nurse.

(c) Unless permission is denied by the resident or the resident's guardian or agent, the facility shall provide evidence that family members have been given an opportunity to provide relevant information for the assessment, unless reaching family members is unreasonably difficult or they do not want to participate in the assessment.

(2) INDIVIDUALIZED SERVICE PLAN. (a) *Scope.* Based on the assessment under sub. (1), an individualized service plan shall be developed for each resident, except a respite care resident, setting forth goals to be accomplished through services provided or arranged by the CBRF and prescribing an integrated program of individually designed activities and services necessary to achieve those goals. The plan shall specify which program services under s. HFS 83.33 will be provided to the resident to meet the resident's needs as identified by the assessment under sub. (1), and the frequency each service will be provided. The plan shall identify the service provider responsible for each element of care or service prescribed in the plan. The plan shall be formulated in writing within 30 days after the person's admission. A resident's plan shall cover all of the following areas that apply to the resident's needs:

1. Physical health, including identification of chronic, short−term and recurring illnesses, physical disabilities and the need for any restorative or rehabilitative care. Whenever a resident's condition undergoes a significant change, the stability of the resident's medical condition shall be evaluated using an evaluation screening instrument provided by the department.

Note: See s. HFS 83.06 (1) (a) 4. to 6. which prohibits the admission or retention of residents needing more than 3 hours of nursing care per week for more than 90 days, who require 24 hour nurse supervision or whose personal care needs cannot be met by the facility or community agencies.

2. An assessment of the medications taken by the resident and the resident's ability to control and administer his or her own medications. If it is determined that the resident is unable to control or administer his or her own medications, the facility shall identify the responsibility it will have for monitoring, controlling or administering the medications.

Note: See s. HFS 83.33 (3) regarding medications.

3. Nursing procedures needed by the resident and the number of hours per week of nursing care need by the resident.

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

5. Behavior patterns which are or may be harmful to the resident or other persons and the measures to be taken to supervise, control and prevent harm to the resident.

Note: Potentially harmful behavior patterns include, but are not limited to: wandering, self−abusive behavior, the propensity to easily choke on certain foods such as peanut butter, pica (an eating disorder), suicidal tendencies, and persons who are destructive of property or self or physically or mentally abusive to others.

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

7. Capacity for self−direction, including the ability to make decisions, to act independently and to make the resident's wants or needs known.

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

(b) *Development.* The resident and the resident's guardian or agent shall be involved with staff of the facility in developing the resident's service plan. When a resident has a medical prognosis of terminal illness, a hospice program or home health care agency, as identified in s. HFS 83.34 (2) (a) shall, in cooperation with the staff of the CBRF, coordinate the development of the resident's service plan and its approval under sub. (3). If the resident has a case manager, a health care provider, a registered nurse or pharmacist who will be supervising the administration of medications, or any other service provider, that person or those persons shall be invited to participate in or contribute to the development of the service plan.

(c) *Annual evaluation.* 1. Within 30 days prior to the annual evaluation under subd. 2., the resident and his or her guardian or agent shall be offered the opportunity to complete a written or oral evaluation of the resident's level of satisfaction with the facility's services, including, but not limited to, the ability of the facility to identify and meet his or her needs and preferences for care, treatment, services and activities; the number and qualifications of staff available; the level of respect shown by staff for his or her rights; the quality, quantity and variety of food served; proper management of his or her personal funds; the adequacy of his or her living quarters, furnishings and cleanliness of the facility; timely receipt of notices of any changes affecting the resident; and whether he or she feels safe and comfortable in the facility. The evaluation shall be either a department form or a form developed by the facility which is approved by the department. When the resident's evaluation is done orally the information shall be recorded on the form by the resident's guardian, agent or designated representative or a CBRF staff member of the resident's choice. The responses provided by the resident and his or her guardian, agent or designated representative shall be incorporated into the evaluation process under subd. 2.

2. An evaluation shall be done at least annually of each resident's abilities and needs in the areas listed in par. (a) 1. to 8. and the goals and services to meet the resident's interests, abilities and needs. The resident and his or her guardian or agent and staff of the CBRF who are knowledgeable of the resident's progress related to the care, treatment and services provided to the resident shall participate in the evaluation. If the resident has a case manager or other health care provider, that person or those persons shall be invited to participate in or contribute to the evaluation. The resident's assessment report and individualized service plan shall be updated to reflect the results of the evaluation.

3. The results of the resident's evaluation under subd. 1. and the facility's evaluation under subd. 2. shall be included in the resident's record.

(d) *Review of progress.* Each resident's progress or regression on each element of care, treatment and service shall be reviewed and documented in the resident's individualized service plan at 6 month intervals following each evaluation under par. (c) or more often when indicated by a change in the resident's condition.

(3) SIGNING OF ASSESSMENT REPORT AND INDIVIDUALIZED SERVICE PLAN AND EVALUATION. When agreement is reached by the resident or his or her guardian, agent or designated representative and the licensee or administrator or designee on the assessment, the individualized service plan and the annual evaluation, the resident or his or her guardian, agent or designated representative and the licensee or administrator or designee shall sign the assessment, individualized service plan and the annual evaluation.

(4) PERSONS IN RESPITE CARE. (a) If a person will be receiving respite care in a CBRF for more than 48 consecutive hours or will be placed in a CBRF periodically, a service plan shall be developed for him or her which shall assure the continuity of care, treatment or services established by the individual's primary care provider.

(b) When a service plan is required, it shall be developed within 48 hours after admission and it shall be signed by the person in respite care or his or her guardian or agent, the primary care provider and the licensee or administrator.

(5) DEPARTMENT REVIEW. The department may at any time review assessments, individualized service plans, evaluations, 6

month reviews, the services provided or arranged for by the licensee for any resident and any other information pertaining to the needs of residents and the care, treatment and services provided to residents to determine if the needs of residents have been documented and the services received meet their needs.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−97.

HFS 83.33 Program services. (1) RULE CONFLICT. When a hospice program or home health agency is the primary care provider for a terminally ill resident under s. HFS 83.34 and there is conflict between a requirement in this section and ch. HFS 131 for hospice programs or ch. HFS 133 for home health agencies, ch. HFS 131 or 133 shall supersede the requirement in this section.

(2) GENERAL SERVICES. Each CBRF shall provide all of the general services at a level and frequency needed by residents and document each service in each resident's individualized service plan. General services are all of the following:

(a) *Supervision.* Each CBRF shall provide supervision of its residents.

(b) *Information and referral.* Each CBRF shall provide information and referral to appropriate community services to its residents.

(c) *Leisure time activities.* Each CBRF shall provide and actively promote resident participation in a program of daily activities designed to provide needed stimulation consistent with the interests of the resident. Watching television does not, by itself, meet this requirement. Participation in an adult day care program outside the CBRF may meet this requirement.

(d) *Community activities.* Each CBRF shall provide information and assistance to facilitate each resident's participation in personal and community activities outside the CBRF. Monthly schedules and notices of community and CBRF activities, including costs to the resident, shall be developed, updated and made visually accessible to all residents. For residents who are unable or choose not to leave the CBRF, the CBRF shall make a good faith effort to involve persons not living in the CBRF in activities provided in the CBRF.

(e) *Family contacts.* Each CBRF shall encourage its residents to maintain family contacts and shall if needed, help in arranging family contacts.

(f) *Transportation.* Each CBRF shall provide or arrange for transportation for residents when needed for medical appointments, work, an educational or training program, religious services and for a reasonable number of community activities of interest to the residents.

(g) *Health monitoring.* 1. a. Each CBRF shall ensure that each person being admitted to the CBRF, except a person exempted under subd. 1. c., receives a health examination to identify health problems and to screen for communicable disease, with the report signed and dated by a licensed physician, physician's assistant, clinical nurse practitioner or a registered professional nurse. That examination shall take place within 90 days before admission or within 7 days after admission.

b. The screening for communicable disease shall include a tuberculin skin test using the mantoux 5TU PPD test and a visual screening for other clinically apparent communicable diseases.

c. Respite care residents who will be staying in the CBRF for at least 7 consecutive days or will be placed in the facility periodically for up to 28 days at a time shall comply with the requirement in subpar. a at the time of initial placement and, for repeat placements, at the time of the first placement in each calendar year. A person in respite care who will not be staying in a CBRF for more than 7 days and will not be placed in the CBRF more than once in each calendar year is exempt from the health examination requirement.

2. Each resident shall have a follow−up health examination at least annually after admission, unless the resident is being seen by a physician not less than once every 6 months.

3. A CBRF shall monitor the health of residents and make arrangements for needed health or mental health services unless otherwise arranged for by the resident. Regular contacts of the resident with his or her physician and any changes in the resident's health or mental health status shall be documented in the resident's record.

(h) *Medical services.* 1. Each CBRF shall ensure that there is a physician's written order for nursing care, medications, rehabilitation services and therapeutic diets provided or arranged by the CBRF.

2. All nursing care, medications, rehabilitation services and therapeutic diets received by a resident shall be documented in the resident's record.

(i) *Advance directives.* A CBRF shall comply with the provisions of chs. 154 and 155, Stats., regarding advance directives. Staff of the CBRF shall provide prompt and adequate treatment, consistent with an advance directive. A CBRF shall not require an advance directive as a condition of admission or as a condition of receiving any health care service.

(3) MEDICATIONS. (a) *Practitioner's order.* 1. There shall be a practitioner's written order for any prescription medication taken by or administered to a CBRF resident and that medication shall be labeled by a pharmacist. Any change in a practitioner's order for any prescription or over−the−counter medication shall be communicated promptly to the CBRF staff responsible for the resident's medication. All over−the−counter medications prescribed by a practitioner shall be properly labeled as required under par. (b) 2. a.

2. The administrator or designee shall arrange for a pharmacist or a physician to review each resident's medication regimen for positive resident outcomes and assurance of proper medication administration. This review shall occur prior to or within 30 days after the person's admission to the CBRF, whenever a resident's prescription medication is changed significantly, whenever a resident's condition undergoes a significant change and not less than once every 12 months following admission. A written report of findings shall be prepared and sent to the administrator and, when the review is done by someone other than the prescribing physician, to the prescribing practitioner when the results of the report recommend a change in the resident's medication regimen or in the administration of a medication.

(b) *Control.* 1. Prescribed and over−the−counter medications shall remain under the control of the resident for whom they are intended unless the resident has been found incompetent under s. 880.33, Stats., does not have the physical or mental capacity to control his or her medication as determined by the resident's physician, or the resident defers this responsibility in writing to the CBRF. A secure place controlled by the resident shall be provided in the resident's room to store his or her medication.

2. When prescription and over−the−counter medications are controlled by the CBRF, the CBRF shall ensure that all of the following are met:

a. All prescription medications shall have a label permanently attached to the outside of the container which identifies the information as required in s. 450.11 (4), Stats. Non−prescription medications shall be labeled with the name of the medication, directions for use, the expiration date and the name of the resident taking the medication. If the label is not clear, the pharmacist shall be contacted and information clarified.

b. Medications shall be stored in their original containers and not transferred to another container except by a practitioner or other appropriately licensed person.

c. Cabinets for storage of medications shall be large enough to accommodate the number of medications on hand in an orderly manner.

d. Medicine cabinets shall be kept locked and the key available only to personnel identified by the CBRF.

e. Medications requiring refrigeration which are stored in a common refrigerator shall be kept in a locked box and properly labeled.

f. Prescription and over−the−counter medications shall not be stored next to household chemicals or other contaminants.

g. Medications for internal consumption shall be stored separately from medications for external application.

(c) *Controlled substances.* 1. Separately locked and securely fastened boxes or drawers or permanently fixed compartments within the locked medications area shall be provided for storage of schedule II drugs subject to 21 USC 812 (c), and Wisconsin's uniform controlled substances act, ch. 961, Stats.

2. For schedule II drugs a proof−of−use record shall be maintained which lists, on separate proof−of−use sheets for each type and strength of drug, 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.

3. The proof−of−use records shall be audited, signed and dated daily by a registered nurse or designee, except that in facilities in which a registered nurse is not present the administrator or designee shall perform the audit of proof−of−use records daily.

(d) *Self−administered by resident.* 1. Prescribed and over−the−counter medications shall be self−administered by a resident unless the resident has been found incompetent under s. 880.33, Stats., or does not have the physical or mental capacity to self−administer his or her medication as determined by the resident's physician.

2. Self−administration of medication by the resident may be supervised by a staff member who prompts the resident to administer the medication and observes the fact of administration and the dosage taken. When supervision of self−administration of medication occurs, staff providing the supervision shall record in the resident's medical record the type of medication taken, the dose taken, the date and time it was taken, any change in the resident's condition observed by the staff person and any comments made by the resident related to his or her condition.

3. When a resident self−administers a prescription medication under the supervision of a staff member and a prescription medication error or adverse drug reaction occurs, if known, or the resident refused to take the medication, that fact shall be documented in the resident's medical record. All medication errors and adverse drug reactions, if known, shall be reported to the prescribing practitioner as soon as possible. A resident's refusal to take a medication shall be reported to the prescribing practitioner as soon as possible after the resident refuses a medication for 2 consecutive days or as otherwise directed by the prescribing practitioner.

4. If the resident is going to be absent from the facility for more than one day, the resident's pharmacist or facility staff under the general supervision of a pharmacist or nurse shall prepare all prescription medications to be taken.

(e) *Assistance or administration by CBRF staff.* 1. Before providing any help to residents with prescribed or over−the−counter medications, a non−medically licensed staff member shall complete the training required under s. HFS 83.14 (3).

2. a. A CBRF staff member may not administer a prescribed or over−the−counter medication unless the staff member has a written medical order from a practitioner to administer the medication and complies with subd. 3. or 4. The practitioner's order shall identify the name of the resident, the medication and the names of the specific staff persons or the staff position identified by the CBRF to administer medications in the staff position's job description.

b. Injections shall be administered by a registered nurse or, for a resident with a stable medical condition, may be administered by a licensed practical nurse who is competent to perform the task. Administering an injection may be delegated to a CBRF staff member by and be administered under the supervision of a registered nurse.

3. The staff member shall be under the general or direct supervision of an appropriately licensed person, a pharmacist or the prescribing practitioner except as provided under subd. 4. To meet this requirement, at least the following functions shall be performed by the appropriately licensed person, the pharmacist or the prescribing practitioner, according to a written protocol, for anyone being supervised:

a. Participate in or contribute to the resident's assessment under s. HFS 83.32 (1) and individualized service plan developed under s. HFS 83.32 (2) regarding the resident's medical condition and the goals of the medication regimen.

b. Participate in or contribute to the evaluation under s. HFS 83.32 (2) (c) and the review and documentation of the progress or regression under s. HFS 83.32 (2) (d) of the resident's medical condition and status in relation to the goals of the medication regimen.

c. Explain to the non−medically licensed staff member the purpose of the medication and any side effects it may cause before the staff member initially administers the medication. The registered nurse, pharmacist or prescribing practitioner may use his or her judgment as to the method of communication, including verbal or written instruction.

d. Provide instruction to the non−medically licensed staff member on the proper procedure for administering a medication and proper medical record documentation before the staff member initially administers the medication. The instruction shall also include universal precautions pertaining to infectious disease control. The registered nurse, pharmacist or prescribing practitioner may use his or her judgment as to the method of communication, including verbal or written instruction.

4. If the staff member is not supervised as required under subd. 3., the resident's prescription medication shall be packaged by a pharmacist in unit dose or unit time packets, a blister pack, multi−day pill holder or similar device, and each packet, pack, holder or similar device shall be labeled by the pharmacist under the provisions of s. 450.11 (4), Stats. CBRF staff may break open the medication container for a resident who is unable to break it open and shall observe self−administration of the medication by the resident. When a resident is not able to self−administer the medication, a CBRF staff member authorized by the prescribing practitioner may administer the medication to the resident. All pharmaceutically packaged medications shall remain in the package until given to the resident. Medications removed from the package shall not be replaced but rather shall be destroyed as required under par. (j).

5. Medical record documentation under this paragraph shall, at a minimum, include the type of medication taken, the dose taken, the date and time it was taken, any change in the resident's condition observed by the staff person and any comments made by the resident related to his or her condition.

6. When a prescription or over−the−counter medication is managed or administered by the facility and a prescription medication error or adverse drug reaction occurs, if known, or the resident refuses to take the medication, that fact shall be documented in the resident's medical record. All medication errors and adverse drug reactions, if known, shall be reported to the prescribing practitioner as soon as possible. A resident's refusal to take a medication shall be reported to the prescribing practitioner as soon as possible if the refusal appears to be medically contraindicated and in

all cases as soon as possible after the resident refuses a medication for 2 consecutive days or as otherwise directed by the prescribing practitioner.

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

1. Ensure that resident care staff and staff who manage and administer the medication understand the potential benefits and side effects of the medication.

2. Ensure that the resident is reassessed at least quarterly for the desired responses and possible side effects of the medication.

3. Document the actions required under subds. 1. and 2. in the resident's medical record.

(g) *More than one prescriber.* When more than one practitioner prescribes medications for a resident, the licensee shall provide a list of all currently ordered medications for the resident to all practitioners prior to any of them prescribing medications. If this information is not provided before a prescription is written, the licensee shall update the resident's primary practitioner or the pharmacist used by the resident prior to the administration of the first dose of any new medication ordered.

(h) *Determination of need for RN or pharmacist supervision.* The department may determine that the medical needs of a resident require that a registered nurse or a pharmacist provide supervision of medication administration.

(i) *Record.* 1. The facility shall maintain a record of receipt and disposition appropriate for the type of medication for all prescribed and over−the−counter medications managed or administered by the facility. The pharmacist or nurse shall assist in the development and updating of the records.

2. The resident's medical condition and the service provided by the facility shall be recorded in the resident's medical record for all medications administered to the resident on an as−necessary (PRN) basis and whenever the resident's medical condition changes.

(j) *Destruction of medications.* 1. Except for controlled substances, a resident's prescription medication not returned to the pharmacy for credit or destruction shall be destroyed within 72 hours of a practitioner's order discontinuing its use, the resident's discharge, the resident's death, loss of medication dosage form integrity, removal of the medication from the medication package, or the medication's expiration date. Controlled substances shall be destroyed according to U.S. drug enforcement agency (DEA) procedures for CBRFs. The CBRF shall write to the DEA for instructions for destroying controlled substances.

Note: The address and phone number for the U.S. Drug Enforcement Agency is 1000 North Water Street, Milwaukee, WI 53202, or call (414) 297−3395.

2. Records shall be kept of all medication returned to the pharmacy for credit or destruction. Any medication not returned for credit or destruction shall be destroyed in the facility and a record of the destruction shall be witnessed, signed and dated by at least 2 of the following: the administrator or designee, a registered nurse or a pharmacist and one other employee.

(4) CLIENT GROUP SPECIFIC SERVICES. Each CBRF shall provide or arrange for services based on the needs of each resident, the type of client group served and the program goals of the facility. Services shall be provided at a level and frequency needed by each resident and shall be documented in the resident's individualized service plan. These services may include but are not limited to the following:

(a) *Personal care.* Personal care services where indicated by the needs of the residents. These services may include teaching and providing opportunities for a resident to increase his or her skills or minimize natural decline in the self−care areas of eating, toileting, personal hygiene, dressing, grooming or bathing.

(b) *Independent living skills.* Teaching and providing opportunities for a resident to increase or maintain his or her independence appropriate to the resident's abilities.

Note: Examples of independent living skills include, but are not limited to: educational skills, money management, food preparation, shopping, use of public transportation, vocational skills, seeking and retaining employment, washing the resident's clothes, cleaning the resident's living area.

(c) *Communication skills.* Teaching and providing opportunities for a resident to increase his or her skills or to minimize natural decline in the ability to make wants and needs known, to listen and to understand.

(d) *Socialization.* Teaching and providing opportunities for a resident to increase his or her ability to get along with others and to strengthen personal relationships. This may involve participation in an adult day care program outside of the CBRF.

(e) *Assistance with self−direction.* Helping the resident increase the resident's motivation and ability to make decisions, and to act independently.

(f) *Monitoring symptom status.* When the resident has a case manager or a physical, occupational or mental health therapist, keeping that person informed of all changes in symptom status in the areas specified by the case manager or therapist and documenting these changes in the resident's individualized service plan or record.

(g) *Medications administration instruction.* Teaching a resident when and how to self−administer the proper dosage of the resident's medication when the resident is capable of learning and assuming the responsibility. A CBRF staff member may perform this instruction under the supervision of a registered nurse or pharmacist.

(h) *Activity programming for persons with irreversible dementia.* Structured activities provided in the facility which are part of the daily routine of any resident with irreversible dementia. Activities shall be chosen in accordance with resident capabilities and resident preferences whenever possible. The focus is on having the person involved and active without concern for how well the task is accomplished. The activities shall also be used to redirect the energies of residents away from troublesome behaviors. Examples of structured activities include all of the following:

1. Household tasks they have been doing prior to admission to the CBRF.

2. Memories and information from the past.

3. Repetitive and simple tasks.

4. Non−verbal, creative activities.

5. Physical activity.

6. Sensory activities such as touching, smelling, tasting and listening.

7. Music therapy.

(i) *Transitional services.* Supportive services provided to persons who currently or potentially are capable of meeting their activities of daily living independently but who temporarily need supervision, assistance or counseling.

(j) *Nursing care.* Up to but no more than 3 hours of nursing care per week for each resident, whether provided or arranged for by the CBRF or arranged for by the resident, the resident's guardian or designated representative, except for a temporary condition for which more than 3 hours of nursing care per week is needed for no more than 90 days. The department may grant a waiver or variance to this requirement for a resident who has a stable medical condition which may be treatable or a long−term condition needing more than 3 hours of nursing care per week for more than 90 days when the resident is otherwise appropriate for CBRF level care and the services needed to treat his or her condition are available in the CBRF.

2. The 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 with a resident shall be recorded in the resident's record when given. Only time actually spent by the nurse with the resident may be included in the calculation of nursing care time.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−97, except (3) (e), eff. 1−1−98; correction in (3) (c) 1. made under s. 13.93 (2m) (b) 7., Stats., Register, October, 1999, No. 526.

HFS 83.34 Terminally ill residents. (1) RULE CONFLICT RESOLUTION. If a hospice program licensed under ch. HFS 131 or a home health agency licensed under ch. HFS 133 becomes the primary care provider for a terminally ill resident of a CBRF and a requirement of ch. HFS 131 for a hospice program or ch. HFS 133 for the home health agency conflicts with a provision of this section, the requirement of ch. HFS 131 or 133 shall supersede the requirement of this section.

(2) GENERAL REQUIREMENTS. A person with a terminal illness may be admitted to a CBRF or a terminally ill resident may be retained in a CBRF, even if requiring more than 3 hours of nursing care per week, if all of the following requirements are met:

(a) A hospice program licensed under s. 50.95, Stats., and ch. HFS 131 or a home health agency licensed under s. 50.49, Stats., and ch. HFS 133 of the resident's choice shall be the primary care provider and shall have the authority and responsibility under its respective license for any palliative care or supportive services provided to the resident and his or her family unless the resident, the resident's guardian or agent chooses not to have the services of a hospice program or a home health agency. If the resident or the resident's guardian or agent chooses not to have the services of a hospice program or a home health agency, all of the following shall apply:

1. The licensee shall ensure that the resident and the resident's guardian or agent has been provided with information about the types of services generally offered to a terminally ill person by a hospice program or a home health agency, including an opportunity for the resident and the resident's guardian or agent to speak with a representative of a hospice program or home health agency and an opportunity to review literature from at least one of these types of agencies which describes its services to a terminally ill person. These efforts to ensure that the resident or the resident's guardian or agent is making an informed decision shall be documented in the resident's record.

2. If the terminally ill resident or the resident's guardian or agent continues to choose not to have the services of a hospice program or a home health agency after the requirements under subd. 1. have been met, the terminally ill resident, the resident's guardian or agent and the resident's designated representative shall sign a form supplied by the department waiving the requirement under this paragraph for the services of a hospice program or a home health agency. The resident or the resident's guardian or agent or designated representative may revoke this waiver at any time by signing a statement of revocation on a form supplied by the department.

3. When a resident or the resident's guardian or agent waives the services of a hospice program or home health agency, the CBRF shall develop and implement the written plan of care required under sub. (3), which shall be reviewed and approved by the resident's primary physician, and shall provide or arrange for all of the care, treatment and services needed by the terminally ill resident.

4. If the terminally ill resident requires more than 3 hours of nursing care per week, to remain in the facility the resident shall receive the services of a hospice program or a home health agency under par. (a).

(b) All the care and services provided by the CBRF shall be coordinated by the primary care provider under par. (a) unless the resident or the resident's guardian or agent and the resident's designated representative have waived the services of a hospice program or home health agency under par. (a) 2.

(3) PLAN OF CARE. (a) A written plan of care shall be developed by the primary care provider and the CBRF before admission or, for a resident, within 20 days after the prognosis of terminal illness. The plan of care shall be approved by a physician.

(b) The plan of care shall:

1. Identify the needs of the resident and the care that will be provided to the resident.

2. Describe the services that will be provided to the resident, to the resident's relatives who have maintained contact with the resident and to the resident's guardian or agent.

3. Be reviewed and updated by a physician, the primary care provider and the CBRF as the medical condition and needs of the resident change.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−97; correction in (2) (a) made under s. 13.93 (2m) (b) 7., Stats., Register, October, 1999, No. 526.

HFS 83.35 Food service. (1) GENERAL FOOD REQUIREMENTS. (a) The CBRF shall serve meals and snacks to residents that meet the nutritional needs of individual residents.

(b) At least 3 meals a day shall be provided unless otherwise arranged according to the CBRF's program statement or the resident's individualized service plan.

(c) A nutritious snack shall be offered to residents in the evening when 14 or more hours will elapse between supper and breakfast.

(d) Meals provided by the facility shall routinely be served family style or restaurant style unless contraindicated for a resident by the resident's individualized service plan or short−term medical needs.

(e) There shall be reasonable adjustments to the food likes, habits, customs, conditions and appetites of the individual resident.

(f) The daily diet of all residents shall, at a minimum, include a variety of foods and shall meet the recommended daily allowance in the "Food Guide Pyramid, Guide to Daily Food Choices," published by the U.S. department of agriculture, unless otherwise ordered for a resident by the resident's physician or a dietitian.

Note: You can obtain a copy of the Food Guide Pyramid and the Dietary Guidelines for Americans from the U.S. Department of Agriculture at www.usda.gov/cnpp.

(g) A resident's physician or a dietitian shall be consulted if a resident is not eating enough food of sufficient quality to maintain nutritional balance. A record of the consultation and resulting steps taken to encourage better eating shall be maintained in the resident's record.

(h) A resident shall not routinely be served meals in the resident's bedroom.

(i) When a resident provides and prepares the resident's own meals on a regular basis, the CBRF shall provide adequate supervision to ensure that the applicable requirements in this section are adhered to.

(j) If a resident is away from the facility during the time a meal is served, adequate food shall be provided to the resident on the resident's return if requested by the resident, the resident's guardian, agent or designated representative or a family member.

(k) The department may determine when the services of a dietitian are needed for the CBRF to ensure that residents are receiving the proper nutrition and a variety of foods.

(2) MODIFIED OR SPECIAL DIETS. A modified or special diet and dietary supplements shall be provided as ordered by a resident's physician or a dietitian.

(3) MENU PLANNING. (a) Menus for general and modified diets for the day shall be posted in a place readily available to the residents.

(b) Each menu shall be dated and kept on file until the next licensing survey by the department.

(4) FOOD SUPPLY. (a) Supplies of perishable foods for at least a 24−hour period and of non−perishable foods for at least a 3 day period shall be on the premises. When meals are prepared off the premises of the facility, the facility shall have a one day supply of non−perishable food in the facility for emergency purposes and shall provide nutritious snack foods and a refrigerator and cabinet space in the facility accessible to residents for storage of snacks.

(b) Only fluid milk which meets the grade A milk standards set out in chs. ATCP 60 and 80 shall be used for beverage purposes. A bulk milk dispenser may be used if it complies with s. HFS 190.09 (2) (a) 3.

(c) Powdered milk may only be used for cooking purposes and shall be brought to a temperature of at least 165°F. during the cooking process.

(d) Eggs and egg mixtures shall be refrigerated at all times.

(e) No hermetically sealed food which has been processed in a place other than the premises of the CBRF or a commercial food processing establishment may be used.

(f) Food shall be stored, prepared, distributed and served under sanitary conditions which prevent contamination or spoilage.

(g) Food in cans that are dented on the seam or on the top of the can, or are bulging or leaking or have any contaminants on them, and dry food in packages that are crushed, punctured or have any contaminants on them shall not be allowed on the premises of the CBRF and shall not be served to the residents.

(h) When unlabeled canned goods are purchased the cans shall either remain in the processing company's marked box until the food in them is prepared for serving, or each can shall be labeled to identify its contents and the date of purchase.

(i) Any canned food, dry food or processed food for which the expiration date on the processing company's container has expired shall not be kept on the premises of the CBRF and shall not be served to residents.

(5) FOOD STORAGE. (a) All food and drink shall be stored to be protected from dust, insects, vermin, rodents, unnecessary handling, overhead leakage, condensation, sewage waste, water backflow or other contamination. No food or drink may be stored on the floor.

(b) All foods requiring refrigeration shall be refrigerated at or below 40° F., and covered and stored in an orderly sanitary manner.

(c) Freezing units shall be maintained at 0°F. or below and foods to be stored in a freezer shall be wrapped, identified and labeled with the date received.

(d) Each refrigerator, walk−in cooler or other refrigeration unit shall have an accurate thermometer inside the unit.

(6) FOOD PREPARATION. (a) Food shall be properly protected from contamination while being prepared and served and shall be prepared as close to serving time as possible.

(b) Raw fruits and vegetables and poultry shall be washed thoroughly.

(c) Hot foods shall be kept at 150°F or above and cold foods at 40°F or below until serving. Reusable leftovers shall be refrigerated promptly.

(d) Food preparation surfaces shall be maintained in a sanitary condition.

(e) Prepared foods shall not be cut on the same surfaces as are used for raw food preparation unless those surfaces are washed between operations.

(f) The kitchen or food preparation areas shall not open into resident rooms, toilet rooms or laundry areas.

(g) The kitchen shall be located on the premises, or a sanitary method of transportation of food shall be provided.

(h) Food preparation areas not located on the premises which are used to prepare meals for CBRF residents, and the persons preparing the food, shall meet all applicable requirements under this section.

(i) Food returned from resident plates shall be discarded.

(7) SANITATION. (a) *Personnel.* 1. Clean and safe work habits shall be maintained by all personnel who prepare or serve food.

2. Personnel showing evidence of open, infected wounds, or communicable diseases transmitted by food handling, to include diarrhea and jaundice, shall be relieved of their duties until the conditions are corrected.

3. Handwashing facilities, including hot and cold running water, soap and disposable towels, shall be provided in the kitchen for use by food handlers. Use of a common towel is prohibited.

(b) *Work areas and equipment.* 1. Work areas and equipment shall be clean and orderly.

2. All cases, counters, shelves, tables, cutting blocks, refrigerating equipment, sinks, cooking and baking equipment, mechanical dishwashing equipment and other equipment used in the preparation, storage or serving of food shall be constructed to be easily cleaned and shall be kept in good repair.

3. Food preparation, serving and food storage areas shall not be used for transporting, washing or rinsing soiled linen.

(8) ROOMS. (a) All rooms in which food or drink is stored or prepared or in which utensils are washed shall have all of the following:

1. Floors that are easily cleaned and that are kept in good repair.

2. Walls and ceilings that have non−absorbent, washable surfaces.

3. Good lighting.

(b) Floors of toilet rooms shall be easily cleaned and shall be kept in good repair.

(9) CLEANSERS AND INSECTICIDES. Cleaning compounds, soaps, polishes, insecticides and toxic substances shall be labeled and shall be stored in an area separate from that used to store food.

(10) UTENSILS. (a) All utensils shall be cleaned after each use with soap and hot water and maintained in a clean condition. When mechanical dishwashing is used, the final rinse shall be for a period of 10 seconds or more at a temperature in the dishwasher of at least 140°F. Automatic chemical sanitizing may be substituted. When automatic chemical sanitizing is used, one of the following maintenance procedures shall be used and a log shall be maintained of the type of procedure used and the date it was used:

1. Preventive maintenance on the automatic chemical sanitizing system recommended by the manufacturer, at the frequency recommended by the manufacturer to determine the effectiveness of the sanitization process.

2. Testing the effectiveness of the sanitizing solution at least once a month using chemical strips designed for that purpose.

(b) Non−disposable dishes, cups, glasses and other utensils shall be used for all meals except for special occasions such as picnics and parties.

(c) Disposable single−service utensils may not be reused.

(d) Utensils shall be stored in a clean, dry place, shall be covered or inverted and shall be protected from contamination.

(e) Common drinking glasses or cups may not be used.

(11) GARBAGE AND RUBBISH DISPOSAL. (a) Garbage and rubbish not disposed of by mechanical means shall be kept in leak−proof, non−absorbent, tightly closed containers and removed from the CBRF daily in a manner that will not be a health hazard.

(b) All containers for garbage, rubbish and recyclables shall be thoroughly cleaned as often as necessary.

(c) Disposable containers and disposable liners of permanent containers shall be discarded after one use.

(d) Outdoor storage of garbage and rubbish shall be in leak-proof, non−absorbent, tightly closed containers.

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(12) PEST CONTROL. There shall be safe, effective procedures for exclusion and extermination of insects, rodents and vermin.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−97.

HFS 83.36 Pets. (1) Pets may be allowed on the premises of a CBRF. Animals that are kept on the premises shall be vaccinated against diseases for which vaccines are available and which present a hazard to the health of residents. Pets suspected of being ill or infested shall be treated immediately for their condition or removed from the facility.

(2) Pens and cages shall be kept clean.

(3) Pets shall be kept and handled in a manner which protects the well−being of both residents and pets.

(4) The wishes of residents shall be considered before a pet is allowed on the premises and at any time a resident expresses concern about a pet which is kept on the premises.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−97.

Subchapter V — Physical Environment and Safety

HFS 83.41 Physical environment. (1) RESIDENT BEDROOMS. (a) *Design and location.* 1. Resident bedrooms shall be designed and equipped for the comfort and privacy of residents and shall be equipped with or conveniently located near toilet and bathing facilities.

2. Resident bedrooms shall be enclosed by full−height walls and rigid, swing−type doors. No bedroom, including that of the licensee, administrator, employee, relative or other occupant, may be used to gain access to any other part of the facility or to any required exit. A resident bedroom may only be used to provide sleeping and living space for the residents.

3. Transoms, louvers and grills are not permitted anywhere in bedroom walls or doors opening directly to a corridor.

(b) *Capacity.* 1. Except as provided in subd. 2., a resident bedroom in an existing building shall accommodate no more than 3 persons.

2. A resident bedroom in a CBRF constructed after January 1, 1979 shall accommodate no more than 2 persons.

3. Persons of the opposite sex shall not be required to occupy the same sleeping room.

(c) *Size.* 1. A resident bedroom shall have at least the number of square feet indicated in Table 83.41.

Table 83.41
Minimum Area Per Resident in a Bedroom, in Square Feet

Class of Licensure	Existing Building		New Construction	
	Single Occupancy	Multiple Occupancy	Single Occupancy	Multiple Occupancy
AA and CA (Ambulatory)	80	60	100	80
AS and CS (Semiambulatory)	100	80	100	80
ANA and CNA (Nonambulatory)	100	80	100	80

2. A bedroom occupied by residents who require different classes of licensure shall meet the highest applicable square footage requirement in Table 83.41 for all residents in the bedroom.

(d) *Additional requirements for basement and ground floor bedrooms.* When any bedroom is located in the basement as defined under chs. Comm 61 to 65 or on the ground floor as defined under chs. Comm 61 to 65, all of the following additional requirements shall apply:

1. There shall be 2 standard exits to grade from that floor level.

2. There shall be sufficient heat, air circulation and lighting in each bedroom.

3. The furnace and any residential clothes dryer having a rated capacity of more than 37,000 Btu/hour shall be enclosed in a one−hour fire resistive rated enclosure as specified under chs. Comm 61 to 65.

Note: Section HFS 83.43 (5) (a) 4. requires a heat detector, integrated with the smoke detection system, in an enclosed furnace room.

(e) *Bed arrangements.* 1. Beds shall be located the minimum distance from heat producing sources recommended by the manufacturer or 18 inches, whichever is more. Beds may be closer than 18" to a forced air register but may not block it. When a bed is less than 18" from a forced air register there shall be a deflector on the register which directs the heat to the floor.

2. There shall be least 3 feet between beds.

(f) *Semiambulatory and nonambulatory residents.* For semiambulatory and nonambulatory residents space at the end and one side of each bed shall be not less than 4 feet. Adequate accessible space for storage of a resident's wheelchair or other adaptive or prosthetic equipment shall be provided and shall be readily accessible to the resident.

(g) *Equipment and supplies.* 1. Each resident shall have the opportunity to use his or her own bedroom furnishings as space permits.

2. Each resident who does not choose to use his or her own bedroom furnishings shall be provided with all of the following:

a. A separate bed of proper size and height for the convenience of the resident. Beds shall be at least 36 inches wide and shall be equipped with good springs and a clean, firm and comfortable mattress in good condition.

b. Drawer space available in the bedroom for personal clothing and possessions.

c. Closet or wardrobe space with clothes racks and shelves for each resident in the bedroom. Closets or wardrobes shall consist of an enclosed space of not less than 24 inches wide by 18 inches deep by 5 feet in height for each resident.

(2) BEDDING AND LAUNDRY. (a) There shall be separate clean linen and dirty linen storage areas or containers. Storage containers shall be clean, leakproof and have a tight fitting lid.

(b) Each resident shall have all of the following:

1. A clean pillow.

2. A mattress pad. When a waterproof mattress cover is used, there shall be a washable mattress pad the same size as the mattress over the waterproof mattress cover.

3. Mattress and pillow covers as necessary to keep mattresses and pillows clean and dry.

4. Two blankets, 2 sheets and a pillowcase.

5. A washcloth, hand towel and bath towel.

(c) Clean sheets, pillowcases, towels and washcloths shall be available at least weekly and shall be changed as necessary to assure cleanliness and freedom from odors.

(d) Laundry appliances shall be readily available to residents who are responsible for doing their own laundry. At least one washer and one dryer shall be available to every 20 residents.

(3) CONGREGATE DINING AND LIVING AREA. (a) A CBRF shall be so arranged and furnished that the residents may spend the majority of nonsleeping hours outside of their bedrooms or apartments. The CBRF shall provide a congregate dining and living area as follows:

1. a. The minimum congregate dining and living area in the CBRF shall be 60 square feet per resident, relative or other occupant, or 90 square feet per resident, relative or other occupant if any resident, relative or other occupant is nonambulatory but able to move from place to place, or the resident requires assistance from staff with eating.

b. For each resident living quarters that is an apartment with a bedroom that meets the requirements under sub. (1) and has other habitable rooms, 25% of the total floor space of the habitable rooms in the apartment, not including bedroom or bathroom floor space, may be applied toward the required congregate dining and living area requirement in subd. 1. a., but not to exceed 30 square feet per resident.

2. Dining facilities shall be large enough so that all residents can eat together.

(b) All required dining and living areas within the CBRF shall be internally accessible to every resident of the CBRF.

(c) Each habitable room shall contain furnishings appropriate to the intended use of the room. Furnishings shall be safe for use by residents, and shall be comfortable, clean and maintained in good repair.

(d) Adequate space and equipment shall be designated to meet the needs of the residents for social and recreational activities.

(e) All habitable rooms shall have an average ceiling height of not less than 7 feet.

(4) HEATING. (a) A CBRF shall have a heating system capable of maintaining a temperature of 74°F. The temperature in habitable rooms shall not be permitted to fall below 70°F during periods of occupancy, except that a class A CBRF may reduce temperatures during sleeping hours to 67°F. A higher or lower temperature shall be provided, if possible, when requested by a resident.

(b) The heating system shall be maintained in a safe and properly functioning condition. All of the following maintenance shall be done by a heating contractor or local utility company and written documentation of the maintenance performed shall be available at the facility:

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 chimney shall be inspected at intervals corresponding with the heating system service in subd. 1. or 2. to ensure that it is free of any obstruction and that it is in good repair.

(c) The use of portable space heaters is prohibited except electric heaters which have an automatic thermostatic control and are physically attached to a wall. Oil−fired, kerosene, gas and alcohol space heaters are prohibited.

(d) The use of any other fuel−fired heater is prohibited unless it is properly vented to the outside.

(e) Any wood burning stove or fireplace in a CBRF shall have a flue separate from the one used by a gas or oil fired furnace or boiler. The entire installation shall meet the requirements in NFPA standard 211. The flue shall be cleaned as often as necessary but not less than 2 times during each heating season, except that when a wood burning stove or fireplace is used for no more than 4 days each month of the heating season, the flu shall be cleaned at least once during each heating season.

(f) No combustible materials of any kind may be placed within 3 feet of any heat−producing sources identified in this subsection.

(g) A level of humidity that is comfortable for the residents shall be maintained in the facility during the heating season.

(5) BATH AND TOILET FACILITIES. (a) *Bath and toilet rooms.* 1. Each small CBRF shall have at least one bathroom and one toilet room or one combination bath and toilet room for the use of residents which is accessible from public, nonsleeping areas, except where private bath and toilet rooms are provided adjacent to each sleeping room.

2. Each medium CBRF shall have at least 2 separate bathrooms and toilet rooms or 2 combination bath and toilet rooms for the use of residents which are accessible from public, nonsleeping rooms, except where private bath and toilet rooms are provided adjacent to each sleeping room.

3. All bath and toilet areas shall be well lighted. Bath and toilet rooms shall be provided with at least one electrical fixture to provide artificial light.

4. Toilets, bathtubs and showers used by residents shall provide for individual privacy unless specifically contraindicated by program needs. Door locks shall be provided to ensure privacy, except where the toilet, bath or shower room is accessible only from a resident room which is occupied by only one person or by a married couple or by persons who are all related by blood. All door locks shall be operable from both sides in an emergency.

5. All toilet and bathing areas, facilities and fixtures shall be kept clean and in good working order.

(b) *Location.* 1. In a class A CBRF, toilet and bathing areas for residents shall be distributed so the maximum vertical travel distance from resident living, dining and sleeping rooms is no more than one floor level.

2. Toilet and bathing areas for residents shall be available on each floor in Class AS, ANA, CS and CNA facilities.

(c) *Number of fixtures.* 1. Toilets and sinks shall be provided in the ratio of at least one toilet and at least one sink for every 8 residents and other occupants or fraction thereof.

2. In an existing building at least one bathtub or shower shall be available for every 10 residents and other occupants or fraction thereof.

3. Where fixtures are accessible only through a sleeping room, they may only be counted as meeting the requirement for the occupants of that sleeping room.

(d) *Water supply.* 1. Each sink, bathtub and shower shall be connected to hot and cold water and adequate hot water shall be supplied to meet the needs of the residents.

2. The temperature of all domestic water heaters connected to sinks, showers and tubs used by residents shall be set at a temperature of at least 125°F but not exceeding 130°F. The temperature setting of other water heaters such as those connected to dishwashers and clothes washing machines may exceed these temperatures. The temperature of water at fixtures in showers and tubs used by residents shall be automatically regulated by valves and may not exceed 110°F, except for CBRFs exclusively serving residents recovering from alcohol or drug dependency or clients of a governmental corrections agency.

Note: The minimum temperature of water in water heaters must be 125°F to prevent the growth of Legionella Bacteria which cause Legionnaire's disease. The maximum temperature of water at taps or fixtures in showers and tubs used by most client groups in CBRFs cannot exceed 110°F to prevent full−thickness scalding of adult skin. Full thickness scalding causes second and third degree burns in which the skin blisters and swells and does not return to normal but forms scar tissue on healing. The duration of exposure to cause full−thickness scalding of adult skin is 1 second at 158°F, 6 seconds at 140°F, 30 seconds at 130°F, 1 minute at 127°F, approximately 2 minutes at 125°F, 10 minutes at 120°F and approximately 13 minutes at 110°F.

3. The fixtures at sinks accessible to residents shall be the single nozzle, lever−handled mixing type fixtures or the single nozzle, 2 handled mixing type fixtures which are easy to control by all residents having access to them. CBRFs exclusively serving residents recovering from alcohol or drug dependency or clients

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of a governmental corrections agency are exempt from this requirement.

4. Where a public water supply is not available, the well shall be approved by the state department of natural resources. Water samples from an approved well shall be tested at the state laboratory of hygiene or other laboratory approved under ch. ATCP 77 at least annually.

(6) SEWAGE DISPOSAL. All sewage shall be discharged into a municipal sewer system or shall be collected, treated and disposed of by an independent sewer system approved under ch. NR 110.

(7) SEPTIC SYSTEMS. A septic system shall meet the requirements in s. Comm 83.21.

(8) PLUMBING. The plumbing for potable water drainage for the disposal of wastes shall comply with applicable state plumbing standards.

(9) CLEANLINESS OF ROOMS. Rooms shall be kept clean and well−ventilated.

(10) BUILDING MAINTENANCE. (a) The building shall be maintained in good repair and free of hazards such as cracks in floors, walls or ceilings, warped or loose boards, warped, broken, loose or cracked floor covering such as tile or linoleum, loose handrails or railings, loose or broken window panes and any similar hazard.

(b) All electrical, mechanical, water supply, fire protection and sewage disposal systems shall be maintained in a safe and functioning condition.

(c) All plumbing fixtures shall be in good repair, properly functioning and satisfactorily protected to prevent contamination from entering the water supply.

(d) All furniture and furnishings shall be clean and maintained in good repair.

(e) Storage areas shall be maintained in a safe, dry and orderly condition. Attics and basements shall be free of accumulations of garbage, refuse, soiled laundry, discarded furniture, old newspapers, boxes, discarded equipment and similar combustible items.

(f) The yard and sidewalks of a CBRF shall be maintained in a orderly and safe condition.

(11) DAY CARE. When there is a day care program for adults or children in the same building as a CBRF, the facilities shall be separate. Entrance doors and exit doors to the outside for each facility shall be separate. Socialization between facilities shall not interfere with the privacy of other residents or infringe upon the use of habitable floor space by CBRF residents.

(12) BUILDINGS WITH JOINT OCCUPANCIES. (a) A CBRF and another residential occupancy in the same building may be intermixed or separated into distinct living areas, except that a CBRF in the same building as a nursing home or hospital shall be a distinct living area. If the occupancies are intermixed and the total building is equally available to CBRF residents and other occupants, the congregate dining and living area requirement under sub. (3) shall be determined by the total capacity of the building. The licensed capacity shall be determined by the total capacity of the building.

(b) If the building is separated into distinct living areas for CBRF residents and other occupants, there shall be at least a one−hour fire rated separation between the 2 occupancies and separate entrance and exit doors to the outside for each occupancy. The required amount of congregate dining and living area used exclusively by the CBRF residents shall be determined by the licensed capacity of the CBRF portion of the building. The entire building shall be equipped with an interconnected smoke detection system if indicated in Table 83.42, s. HFS 83.43 or 83.44, and a sprinkler system if indicated in Table 83.42 or 83.52 or in s. HFS 83.63, except if the CBRF is a small class CA, CS or CNA CBRF that meets the alternative requirements in s. HFS 83.44, or if the building houses also a nursing home or a hospital.

(c) Except for a nursing home or a hospital, if a building is separated into distinct living areas for CBRF residents and other occupants by a 2−hour fire−rated separation, the stairwells, hallways, corridors, congregate dining and living areas and hazardous areas in the non−CBRF portion of the building shall be equipped with an interconnected smoke detection system which is connected to the smoke detection system in the CBRF. The non−CBRF portion of the building does not need to be served by a sprinkler system. The required congregate dining and living area for the CBRF portion of the building shall be determined by the licensed capacity of the CBRF. Each door in the firewall shall be equipped with an automatic door closer.

(d) If the structure is divided by a 4−hour rated fire wall, the congregate dining and living area requirement for the CBRF building shall be determined by the licensed capacity of the CBRF. The non−CBRF part of the building does not need an interconnected smoke detection system or a sprinkler system. Each door in the fire wall shall be equipped with an automatic door closer.

(13) HAZARDS TO RESIDENTS. Any hazards identified by the municipality through the process specified in s. 50.03 (4) (a) 3., Stats., which are within the control of the licensee to change or modify shall, upon order of the department, be corrected or minimized. The department may deny a license or place conditions on a license when there is a hazard which presents a substantial risk to the health, safety or welfare of the residents, even when the licensee has no control over the hazard or ability to change or modify the hazard.

(14) LOCATION. The site shall be free from environmental nuisances, such as noise and odors, and be easily accessible for employees and visitors. The location shall promote the treatment, comfort, safety, well−being and health of the residents. The site shall be conveniently located in proximity to community resources used by residents.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−97; correction in (5) (d) 4. made under s. 13.93 (2m) (b) 7., Stats., Register, October, 1999, No. 526; correction in (7) made under s. 13.93 (2m) (b) 7., Stats., Register July 2001, No. 547; **corrections in (1) (d) (intro.) and 3. made under s. 13.93 (2m) (b) 7., Stats., Register December 2003 No. 576.**

HFS 83.42 Safety. (1) FACILITY EVACUATION TIME. The defense against fire at any time of day or night in a CBRF shall be established by the application of Table 83.42. The fire safety protections in Table 83.42 shall be applied in addition to the other fire safety protections and construction requirements in this chapter which apply to the particular facility.

Table 83.42
Evacuation Capabilities and Additional Fire Safety Protections[1]

Evacuation Time of 2 minutes or less[2]	Evacuation Time of More than 2 and up to 4 minutes[2]	Evacuation Time of 4 minutes or more[6]
Additional Fire Safety Protections:	Additional Fire Safety Protections:	Additional Fire Safety Protections:
− No additional fire safety protections beyond those required in this chapter.	− Externally monitored,[3] complete smoke detection system[4] with backup battery power supply.[5] − Vertical smoke separation between all floors. − Rated stair enclosure under Comm Table 51.03	− Sprinkler under s. HFS 83.43 (7) − Vertical smoke separation between all floors. − 24 hour awake staff
Response: Evacuate	Response: Evacuate	Response: Evacuate those residents who are able to be safely evacuated. Use point of rescue[7] or go to an area of rescue assistance[8] only for those residents who are not able to be safely evacuated.

1 "Horizontal evacuation" to a safe part of the building may be used when the building has the department's approval under s. HFS 83.53 (1) (b) to use horizontal evacuation.

2 See s. HFS 83.42 (3) which describes planning for the evacuation of residents or other department approved response to an emergency.

3 The external monitoring of a smoke detection system shall meet the requirements under s. HFS 83.44 (1) (e).

4 "Complete smoke detection system" includes a smoke detector in each sleeping room which is interconnected with the rest of the smoke detection system in addition to smoke and heat detectors in the locations specified under s. HFS 83.43 (4) and (5), and special equipment for persons with sensory impairments under s. HFS 83.43 (6).

5 A standard smoke detection system as required under s. HFS 83.43 (1) to (5), which is not externally monitored is acceptable if the facility is sprinklered under s. HFS 83.43 (7).

6 For these residents, a "point of rescue" response, combined with the "additional safety protections" required in this section of this table, provide a greater degree of protection in a fire emergency.

7 The "point of rescue" response includes but is not limited to all of the following:

a. Move any residents who are in immediate danger to a safe part of the building or evacuate them from the building.

b. Evacuate from the building those residents who are able to be safely evacuated.

c. When it is determined in advance that a resident is unable to be evacuated safely in an emergency, particularly if the resident is in his or her room when the fire alarm sounds, instruct the resident to stay in his or her room and to keep the door and any windows closed. Instruct the resident to await rescue in his or her room by the fire department.

d. Notify the fire department in advance of the facility's planned response to a fire, including how many residents will be staying in their rooms, and supply the fire department with a floor plan which identifies where those rooms are located in the facility. Supply the fire department with a revised floor plan within 5 days of any changes in the location of rooms which residents will use as a point of rescue.

e. A staff person on duty at the time of a fire alarm shall notify the fire officials immediately upon their arrival of the points of rescue in the building from which residents need to be evacuated.

8 See s. HFS 83.52 (3) which describes the construction requirements for an "area of rescue assistance," and its use in a fire emergency.

(2) EVALUATION OF RESIDENT EVACUATION LIMITATIONS. (a) Each resident shall be evaluated within 3 days of admission to determine whether he or she is able to evacuate the facility without any help or verbal or physical prompting within 2 minutes in an unsprinklered facility and 4 minutes in a sprinklered facility, and what type of limitations that resident may have which prevents him or her from evacuating the facility within the applicable period of time. A form provided by the department shall be used for the evaluation. A resident's evaluation shall be retained in the resident's record.

(b) Each resident whose evacuation time is more than 2 minutes shall be evaluated annually. All staff who work on the premises shall be made aware of each resident having an evacuation time of more than 2 minutes and up to 4 minutes and the type of assistance that the resident needs to be evacuated.

(c) All staff who work on the premises shall be made aware of each resident having an evacuation time of 4 minutes or more or not able to be evacuated safely, particularly if that resident is in his or her room when the fire alarm sounds. That resident shall be instructed to remain in his or her room, if he or she is there when the fire alarm sounds, and to await rescue by the fire department. A resident who is not in or very near his or her room when the fire alarm sounds shall be evacuated from the facility.

(d) All residents who have been designated to use an area of rescue assistance shall go to the area of rescue assistance when the fire alarm sounds to await rescue by the fire department.

Note: See s. HFS 83.52 (3) for the requirements for an area of rescue assistance.

(3) EMERGENCY PLAN. (a) Each CBRF shall have a written plan for dealing with emergencies. The plan shall specify the responsibilities of staff. The plan shall cover all of the following:

1. Procedures for orderly evacuation or other department−approved response during a fire emergency.

2. Response to serious illness or accidents.

3. Preparation for and response to severe weather including tornado and flooding.

4. A route to dry land when the facility is located in a flood plain.

5. Location of an emergency shelter for the residents.

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

7. How meals will be provided to residents at the emergency shelter.

(b) The emergency plan shall be posted in a conspicuous place readily available to residents and staff.

(c) The emergency plan shall have attached an exit diagram which shall be separately posted on each floor of the facility used by residents in a conspicuous place where it will be seen by the residents. The diagram shall identify the exit routes from the floor, including internal horizontal exits under s. HFS 83.53 (1) (b) when applicable, and the meeting place outside and away from the building when evacuation to the outside is the planned response to a fire alarm. Small facilities with one exit from the second floor or basement need not post a diagram on that floor level.

(d) The CBRF licensee, administrator and all staff who work in the facility shall be trained in all aspects of the emergency plan. The training of staff shall be documented in individual personnel records.

(e) The procedures to be followed to ensure resident safety in the event of a fire, tornado, flooding or other emergency shall be clearly communicated by the staff to a new resident within 72

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hours after admission. A fire evacuation drill shall be practiced at least quarterly with both staff and residents, with written documentation of the date and evacuation time for each drill maintained by the facility.

(f) At least one fire evacuation drill annually shall be held which simulates the conditions during usual sleeping hours. This evacuation drill shall be announced to all residents the day of the drill. It shall be held in the evening after dark and before the residents normally go to bed. The residents shall be in their rooms at the time the alarm is activated, shall not be wearing their hearing or vision aids, but may be wearing their day−time clothes. The staff in the facility at the time of the drill shall be limited to the staff who are scheduled to work during the residents' normal sleeping hours. Only the lights that are normally on when residents are sleeping may be on during the drill.

(g) If the local fire department disagrees with any aspect of the facility's emergency plan, the licensee or designee shall notify the department and the department shall participate in resolving the differences. Evacuation procedures involving fire department personnel shall be practiced at the option of the fire department.

(4) EMERGENCY PLANNING FOR CERTAIN RESIDENTS. (a) For class AA, AS and ANA facilities the emergency plan shall take into consideration any resident who has refused to follow or has otherwise not followed prescribed evacuation procedures in a timely manner either in practice or in response to an emergency, and shall set out alternative procedures for that resident. Staff shall be informed within 24 hours of any resident for whom alternate emergency planning has been done and what the emergency procedures are for that resident.

(b) When alternative emergency procedures are needed for a resident, there shall be a quarterly evaluation of the resident's ability to promptly evacuate the facility. The alternative emergency procedures for the resident shall be updated each quarter to include the results of the evaluation and any changes in the procedure to evacuate the resident. Staff shall be informed of any changes in the emergency procedures for that resident on their first shift after the changes are made.

(5) CBRF IN THE SAME BUILDING AS A NURSING HOME. A CBRF which is in the same building as a nursing home licensed under ch. HFS 132 or 134 and meets the life safety, design and construction requirements of the nursing home may have the same emergency plan and evacuation procedures approved by the department for the nursing home.

(6) FIRE INSPECTION. (a) The licensee of a CBRF licensed for 9 or more residents shall arrange for all of the following:

1. At least an annual inspection by the local fire authority using department forms DCS 795, 795A and 795B or other forms or correspondence used by the local fire authority.

2. Comments and recommendations from the local fire authority about the adequacy of the written emergency plans under subs. (3) and (4) for the orderly evacuation of residents in case of fire, and the fire safety of the CBRF.

(b) The department shall inspect CBRFs licensed for 8 or fewer residents annually to determine compliance with the fire safety requirements in this chapter and the adequacy of the written emergency plans under subs. (3) and (4).

(7) SMOKING. (a) A written policy on smoking shall be developed by the licensee of a facility. The policy shall designate areas where smoking is permitted, if any, and shall be clearly communicated to a new resident prior to admission.

(b) Designated smoking areas shall be well−ventilated or an alternate means of eliminating the smoke shall be provided.

(c) Any designated smoking area shall comply with the clean indoor air act provisions in s. 101.123, Stats.

Note: The Clean Indoor Air Act, s. 101.123, Stats., applies to CBRFs.

(d) Any resident who has a respiratory or other condition for which the resident's physician has recommended clean air shall be provided with smoke−free sleeping, eating and recreational areas.

(8) FIRE EXTINGUISHER. (a) At least one fire extinguisher with a minimum 2A, 10−B−C rating shall be provided on each floor of the CBRF. Fire extinguishers on upper floors shall be located at the head of each stairway. In addition, extinguishers shall be located so the maximum area per extinguisher of 3,000 square feet is not exceeded and travel distance to an extinguisher does not exceed 75 feet. The extinguisher on the kitchen floor level shall be mounted in or near the kitchen.

(b) All fire extinguishers shall be maintained in readily usable condition. Fire extinguisher inspections shall be done one year after the initial purchase of a fire extinguisher and annually thereafter. Fire extinguisher inspections shall be done by a qualified professional. Each fire extinguisher shall be provided with a tag for the date of inspection.

(9) EXTINGUISHER MOUNTING. A fire extinguisher shall be mounted on a wall or a post where it is clearly visible, the route to it is unobstructed and the top is not over 5 feet high. The extinguisher shall not be tied down, locked in a cabinet or placed in a closet or on the floor except that it may be placed in a clearly marked, unlocked wall cabinet used exclusively for that purpose.

(10) LIGHTS. Candles and other open flame lights are not permitted as a substitute for the building lighting system.

(11) FLOORS AND STAIRS. Floors and stairs shall be maintained in a non−hazardous condition.

(12) MAINTENANCE OF EXITS. Sidewalks, doorways, stairways, fire escapes and driveways used for exiting shall be kept free of ice, snow and obstructions.

(13) DOOR LOCKS. The employee in charge of a facility on each work shift shall have a key or other means of opening all locks or closing devices on all doors in the facility including access to resident records. Not included in this requirement is a room or file cabinet containing confidential personnel information except that personnel information required under s. HFS 83.13 shall be available in the facility for department review.

(14) SLIPPERY SURFACES. Abrasive strips or non−skid surfaces to reduce or prevent slipping shall be used when slippery surfaces present a hazard.

(15) CARPETING. All newly installed carpeting shall have a class A or B rating under the tunnel test with a flamespread rating of 75 or less, or a class 1 or 2 rating under the radiant panel flux test with a flamespread rating of 0.22 watts per square centimeter or greater when tested in accordance with s. Comm 61.60 or the manufacturer for each specific product. Certified proof by the manufacturer of one of those tests for the specific product shall be available in the facility. Certification by the installer that the material installed is the product referred to in the test proof shall be obtained by the facility. No carpeting may be applied to walls unless it has a class A rating under the tunnel test with a flamespread rating of 25 or less.

Note: The class A or B rating under the tunnel test has no relationship to the classes of licensure under s. HFS 83.05 (2).

(16) FIRST AID KIT. Every facility shall have on the premises a first aid kit with contents as determined by the department. The kit shall be resupplied when needed, maintained in good usable condition and kept in a place known to and readily available to all employees.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−97; correction in (15) made under s. 13.93 (2m) (b) 7., Stats., Register July 2001, No. 547; **correction in (15) made under s. 13.93 (2m) (b) 1., Stats., Register December 2003, No. 576.**

HFS 83.43 Fire protection system. (1) INTERCONNECTED SMOKE DETECTION SYSTEM. Except as provided in sub. (2), each community−based residential facility shall have an interconnected smoke detection system to protect the entire facility so that if any detector is activated, an alarm audible throughout the building will be triggered.

(2) RADIO−TRANSMITTING SMOKE DETECTION SYSTEM. A community−based residential facility with a licensed capacity of 8 or fewer persons may use a radio−transmitting smoke detection sys-

tem that triggers an alarm audible throughout the building. Larger facilities may install a radio−transmitting smoke detection system which is designed for larger applications.

(3) SMOKE DETECTION SYSTEM AND HEAT DETECTORS. (a) *Installation and testing of smoke detectors.* Smoke detectors shall be installed and maintained in accordance with the NFPA standard 72 on automatic fire detectors and the manufacturer's recommendation. Smoke detectors powered by the facility electrical system shall be tested not less than once every 3 months. Single station battery detectors shall be tested not less than once each month. CBRFs shall maintain a written record of tests and maintenance of the smoke detection system and of single station battery operated detectors under sub. (4) (b) 3.

(b) *Testing by service companies.* 1. After the first year following installation, smoke detection systems and heat detectors shall be inspected, cleaned and tested annually by a reputable service company in accordance with the specifications in NFPA standard 72 and the manufacturer's specifications and procedures. Detectors shall not be tested using a spray device that administers an unmeasured concentration of aerosol into the detector.

2. Within the fourth year following the date of installation, and every 2 years thereafter, the smoke and heat detectors shall be tested by a reputable service company to ensure that each detector is within its listed and marked sensitivity range in accordance with the specifications in NFPA standard 72 and the manufacturer's specifications and procedures. When the smoke detection system of a CBRF licensed prior to January 1, 1997 was installed more than 4 years prior to that date, the smoke and heat detectors shall be tested under this subdivision within one year after January 1, 1997, and every 2 years thereafter. Detectors found to have an abnormal sensitivity shall be replaced.

3. All detectors suspected of exposure to a fire condition shall be inspected, cleaned and tested within 5 days after each exposure by a reputable service company in accordance with the specifications in NFPA standard 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 OF DETECTORS. (a) *System approval.* No facility may install a smoke detection system that fails to meet the approval of the department.

(b) *Specific location.* 1. All CBRFs shall have at least one smoke detector located at each of the following locations:

a. At the head of every open stairway.

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

c. In every corridor, spaced not more than 30 feet apart 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 not including a kitchen, bathroom or laundry room.

e. In or near the living room of an apartment.

f. In each bedroom in which smoking is allowed.

2. CBRFs initially licensed on or after January 1, 1997 shall have at least one smoke detector located in each of the following locations in addition to the locations specified in subd. 1.:

a. In each bedroom in which a smoke detector under subd. 1. f. is not required.

b. In each room of the staff living quarters including the staff office but not including the kitchen or bathroom.

c. In the basement or in each room in the basement except a furnace room or laundry room.

d. In adjoining rooms where the shared openings have a minimum lintel depth of 8 inches from the ceiling.

e. In each compartment of any room if the openings between compartments have a minimum lintel depth of at least 8 inches from the ceiling.

3. CBRFs initially licensed before January 1, 1997 shall, at a minimum, have one or more single station battery operated smoke detectors in all of the locations specified in subd. 2., when an interconnected or radio frequency smoke detector is not installed in that location. CBRFs licensed before January 1, 1997 shall have an interconnected or radio frequency smoke detector in each of the locations specified in subd. 2. within 5 years after January 1, 1997 or when any smoke detector of the smoke detection system in the facility on January 1, 1997 needs replacement and new smoke detectors compatible with the detection system currently in the CBRF are not available and a new smoke detection system needs to be installed, whichever comes first.

(c) *Connection and activation.* Smoke detectors in or near the living room of an apartment and smoke detectors in the bedrooms of an apartment may be connected to the main alarm system or they may be connected 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 staff anywhere in the facility that a detector has been activated. Detectors under this paragraph shall activate an alarm in all of the resident bedrooms and the apartment.

(d) *Large room.* Large rooms may require more than one smoke detector in order for the detection system to provide adequate protection. To receive approval from the department, detectors in large rooms shall be mounted in accordance with the manufacturer's separation specifications and the U. L. listing for the detector used. In this paragraph, "large room" means a room with one or more walls which are 30 feet or more in length.

(5) HEAT DETECTORS. (a) CBRFs initially licensed on or after January 1, 1997 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 separation specifications:

1. The kitchen when it is a separate enclosed room or when it has a shared opening with a minimum lintel depth of at least 8 inches from the ceiling separating it from any adjoining room.

2. In any attached garage.

3. In the attic or in each enclosed compartment of the attic.

4. In an enclosed furnace room.

5. In an enclosed laundry room.

(b) CBRFs licensed before January 1, 1997 shall meet the requirements under par. (a) within 5 years after January 1, 1997, or when any smoke detector of the smoke detection system in the facility on January 1, 1997 needs replacement and new smoke detectors compatible with the smoke detection system currently in the CBRF are not available and a new smoke detection system needs to be installed, whichever comes first.

Note: It is recommended that rate−of−rise heat detectors be used rather than fixed temperature heat detectors in all areas of the CBRF listed in sub (5) except the kitchen. Rate−of−rise heat detectors respond to a fire sooner, particularly when it is cold outside. It is recommended that a fixed temperature heat detector be used in the kitchen.

(6) SPECIAL EQUIPMENT FOR PERSONS WITH IMPAIRED HEARING OR VISION.

(a) If any resident is admitted or retained who has impaired hearing or vision which significantly affects his or her ability to detect or respond to a fire emergency, the licensee shall ensure that appropriate equipment is installed in the resident's bedroom and on each floor level used by the resident to alert the resident to a fire emergency. The requirements in this paragraph do not apply to a CBRF that has a sprinkler system and that meets the staffing requirements under s. HFS 83.15.

(b) The sensory impairment shall be noted in the resident's record and shall be communicated to all staff within 5 days after admission or after determination of the impairment is made.

File inserted into Admin. Code 1−1−2004. May not be current beginning 1 month after insert date. For current adm. code see:
http://docs.legis.wisconsin.gov/code/admin_code

(7) SPRINKLER SYSTEMS. (a) *Types.* A CBRF shall have a sprinkler system if indicated in Table 83.42 or 83.52 or in s. HFS 83.63, except small class CA, CS and CNA CBRFs that meet the alternative requirements of s. HFS 83.44. The types of sprinkler systems to be used are as follows:

1. A CBRF licensed for 16 or fewer residents may use an NFPA 13D residential sprinkler system only when each room or compartment in the facility 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 and entrance foyers shall be sprinklered. The department may determine that 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 which inhibit proper water discharge when the square footage of each room or compartment in the facility would ordinarily allow an NFPA 13D sprinkler system.

2. A CBRF licensed for 16 or fewer residents shall use an NFPA 13R residential sprinkler system when one or more rooms or compartments in the facility 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 CBRF licensed for more than 16 residents shall use a complete NFPA 13 automatic sprinkler system.

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

Note: See s. HFS 83.63 for sprinkler system requirements in large CBRFs.

(b) *Installation and maintenance.* All sprinkler systems shall be installed by a state licensed sprinkler contractor and shall be maintained according to the standards in NFPA 25. All sprinkler systems shall be inspected annually.

(c) *Other equipment.* A CBRF equipped with a sprinkler system shall also be equipped with an interconnected or radio frequency smoke detection system and heat detectors as required in subs. (1) to (5).

(d) *Review of plans and on−site inspection.* 1. Final plans and calculations for the installation of a sprinkler system in any size CBRF, in new construction and in an existing building, shall be submitted to the department for review and approval before installation. At least one on−site inspection shall be conducted by a department engineer to ensure that the sprinkler system is installed according to department−approved plans. A license shall not be issued by the department until it verifies that installation of the sprinkler system complies with the approved plans.

2. The fees required for plan review services under s. HFS 83.56 (3) apply to plan reviews under this section.

Note: Plan reviews and inspections to determine compliance with the applicable rules in this chapter and the applicable NFPA standards are done by professional engineers in the Department's Division of Disability and Elder Services, Bureau of Quality Assurance. There is an application form, and a fee is assessed for a plan review. Plans should be sent to the Bureau of Quality Assurance, Health Services Section, 2917 International Lane, Suite 300, Madison, WI 53704, or call (608) 243−2024.

(8) USE OF LISTED EQUIPMENT. Smoke and heat detectors, special equipment for persons with sensory impairments and sprinkler equipment installed under this section shall be listed by a nationally recognized testing laboratory that maintains periodic inspection of production of tested equipment. The list shall state that the equipment meets nationally recognized standards or has been tested and found suitable for use in a specified manner.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−97.

HFS 83.44 Alternative requirements to a sprinkler system in small class C CBRF. (1) GENERAL REQUIREMENTS. Small class CA, CS and CNA CBRFs are exempt from the sprinkler system requirement under s. HFS 83.43 (7) if all of the following requirements are met:

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

(b) The bedroom and congregate dining and living area for any resident requiring a class CA, CS or CNA CBRF who is blind or not fully ambulatory shall be on the first floor. Facilities serving one or more nonambulatory residents shall have 2 primary exits accessible to grade. Split level homes may be used only for ambulatory residents who may be housed on any habitable floor level.

(c) The CBRF shall not be located in a building which has more than 2 living units as defined under chs. Comm 61 to 65, or has more than 2 stories as defined under chs. Comm 61 to 65.

(d) The requirements for a smoke and heat detection system under s. HFS 83.43 (1) to (5) and for special equipment for persons with impaired hearing or vision under s. HFS 83.43 (6) shall apply, except that every habitable room in the facility shall have an interconnected or radio frequency smoke detector except where heat detectors are required.

(e) The smoke detection system shall have a backup battery power supply and shall be 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 UL 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, with direct connect polarity reversal, connecting the smoke detection system to the municipal or county emergency dispatch center or to the local fire department.

(f) There shall be vertical smoke separation between each floor level.

(g) The emergency plan under s. HFS 83.42 (3) shall specify evacuation of the residents as the response to a fire under Table 83.42. No resident may have an evacuation time, as determined under s. HFS 83.42 (2), that exceeds 2 minutes.

(2) DUPLEXES. If the CBRF is located in one living unit of a duplex, the following requirements shall apply in addition to those under sub. (1):

(a) The entire building shall be controlled by the same agency or corporation licensed to operate the CBRF.

(b) If the non−CBRF living unit is used for some type of supportive residential program, it shall be a distinctly different program, serving clients with distinctly different service needs than the CBRF and having a separate budget and separate staffing from the CBRF. A written description of how that program differs from the CBRF program and how the client service needs are different and assurances that the budgets and staffing of the 2 programs are separate shall be provided to the department.

(c) There shall be at least a one−hour fire separation between the 2 living units. For side−by−side duplexes this separation shall include the basement and the attic up to the underside of the roof.

Note: A one−hour fire separation can be achieved with the use of one layer of 5/8 inch gypsum board on each side of the common wall separating the living units.

(d) Both living units shall be equipped with one interconnected or radio frequency smoke detection system as described in sub. (1) (d) and (e), and the CBRF part of the building shall have vertical smoke separation described in sub. (1) (f). The CBRF administrator or designee shall be responsible for all testing and maintenance of the smoke detection system in both living units. Testing and maintenance in the non−CBRF living unit shall follow the same schedule that applies to the CBRF.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−97; **corrections in (1) (c) made under s. 13.93 (2m) (b) 7., Stats., Register December 2003 No. 576.**

HFS 83.45 Accessibility. (1) ACCESSIBILITY REQUIREMENTS. All CBRFs shall comply with the accessibility requirements found in Table 83.45.

Table 83.45
Accessibility Requirements

Accessibility Requirements	Class of CBRF	
	AA, CA	AS, ANA, CS, CNA
Ramped or grade level for at least 2 primary entrances from street, alley or ancillary parking to a primary floor	Readily achievable[7]	Required[1]
Stepped entrances to a primary floor within 2'−0" of grade	Permitted	Required[1]
Stepped entrances to a primary floor minimum 2' − 8" clear opening	Readily achievable[7]	Required
All passageway doors on primary floor minimum 2'−8" clear opening	Permitted[2]	Required
Elevators, ramps or lifts between interior floor levels	Permitted	Required[3,4]
Interior access to all common−use areas	Readily achievable[7]	Required
Interior access to all bathing and toilet facilities	Readily achievable[7]	Required [5]
Grab bars for toilet and bath fixtures	Readily achievable[7]	Required [5]
Compliance with ch. Comm 62, Toilet Facility Details	Readily achievable[7]	Required[5]
Levered handles on all doors, bathroom water fixtures and other devices normally used by residents with manual strength or dexterity limitations.	Required[6]	Required[6]

1 Ramped or grade level for at least 2 primary entrances required if residents are not capable of negotiating stairs or the exterior grade to the facility.

2 Two−foot 6−inch passageway doors are permitted in existing buildings.

3 A lift in any required stairway exit in an existing building shall not encroach upon the exit width required under the applicable department of commerce requirements. The lift shall not block access to the handrail.

4 May be omitted if use of other floors is restricted to ambulatory or semiambulatory residents physically capable of negotiating stairs or if there are no one−of−a−kind, common−use areas located on these floors.

5 Shall be provided to the maximum extent feasible in existing buildings undergoing remodeling, but may be omitted in rooms used only by fully ambulatory residents not using a wheelchair, walker, cane, crutches or other assistance. For new construction the requirements in the Americans with Disabilities Act (PL 101−336) apply in addition to chs. Comm 61 to 65.

Note that in 28 CFR 36.402 of Federal regulations implementing the Americans with Disabilities Act (PL 101−336), "the phrase 'to the maximum extent feasible' applies to the occasional case where the nature of an existing facility makes it virtually impossible to comply fully with applicable accessibility standards through a planned alteration. In these circumstances, the alteration shall provide the maximum physical accessibility feasible. Any altered features of the facility that can be made accessible shall be made accessible. If providing accessibility in conformance with this section to individuals with certain disabilities (e.g., those who use wheelchairs) would not be feasible, the facility shall be made accessible to persons with other types of disabilities (e.g., those who use crutches, those who have impaired vision or hearing, or those who have other impairments)."

6 Required when other hardware creates a barrier or is difficult to use safely by residents with manual strength or dexterity limitations.

7 28 CFR 36.304 of Federal regulations implementing the Americans with Disabilities Act (PL 101−336), requires that "a public accommodation [which includes CBRFs] shall remove architectural barriers in existing facilities, including communication barriers that are structural in nature, where such removal is readily achievable, i.e, easily accomplished and able to be carried out without much difficulty or expense." See 28 CFR 36.304 for a list of examples of barrier removal and for the order of priorities for creating accessibility.

(2) RAMP REQUIREMENTS. (a) *Slope.* In new construction and all remodeling of existing buildings, all interior and exterior ramps shall have a slope of not more than one foot of rise in 12 feet of run. 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 of CBRFs initially licensed on or after January 1, 1997 shall have a handrail on each side which shall be mounted between 34" and 38" above the ramp surface. CBRFs licensed prior to 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 a level platform at least 5 feet long where they turn and at least 5 feet by 5 feet level landing at the bottom of the ramp.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−97; **correction in Table made under s. 13.93 (2m) (b) 7., Stats., Register December 2003 No. 576.**

Subchapter VI — Structural Requirements

HFS 83.51 Building construction and site. (1) CONDITION OF BUILDING AND SITE. (a) Any building used as a CBRF shall be structurally sound without visible evidence of structural failure or deterioration.

(b) 1. All courts, yards or other areas on the premises shall be drained or graded to divert water away from the building.

2. No CBRF may be located in a floodway.

(c) Fences, other minor construction, driveways, parking areas and similar paved areas shall be maintained in a safe condition.

(d) Walkways and driveways shall provide convenient all−weather access to buildings and shall be maintained in a safe condition.

(e) For facilities serving only ambulatory residents, a cleared pathway shall be maintained to a safe distance away from the

building from all exterior doors that would be used in an emergency. For facilities serving semi−ambulatory and non−ambulatory residents, a cleared, hard surface, barrier−free walkway shall be maintained to a safe distance away from the building for at least 2 primary exits from the building, and all other exits that would be used in an emergency shall have at least a cleared pathway maintained to a safe distance from the building. An exit door or walkway to a cleared driveway leading away from the facility also meets this requirement.

(f) Exterior surfaces of buildings and structures not inherently resistant to deterioration shall be treated with a protective coating of paint or other suitable preservative which will provide adequate resistance to weathering. Any exterior surface treated with paint or other preservative shall be maintained to prevent chipping, cracking or other deterioration of the exterior surface or the surface treatment. No lead−based paints or preservatives may be used.

(g) Every interior floor, wall and ceiling shall be kept in good repair. Interior walls and ceilings in spaces subjected to moisture shall be provided with water−resistant hard surfaces and shall have no substantial surface irregularities or cracking. The use of "indoor−outdoor" carpeting or other material approved for application on floors subjected to moisture is acceptable.

(h) Every foundation wall, exterior wall, floor and roof shall be watertight, rodent−proof and reasonably weathertight and shall be kept in good repair.

(i) Every exterior window, exterior door and exterior basement hatchway shall be watertight, rodent proof and reasonably weathertight and kept in good repair. Every interior door shall be kept in good repair. All installed door and window hardware shall be maintained in good working condition.

(j) Every inside and outside stair, every porch and every appurtenance to the building shall be maintained to be safe in use.

(2) GARAGES AND UTILITY BUILDINGS. (a) *Attached garages.* 1. Common walls between a CBRF and an attached garage shall be protected with not less than one layer of 5/8−inch type X gypsum board with taped joints, or equivalent, on the garage side and with not less than one layer of 1/2−inch gypsum board with taped joints, or equivalent, on the CBRF side. The walls shall provide a complete separation.

2. Floor−ceiling assemblies between a garage and the CBRF shall be protected with not less than one layer of 5/8−inch type X gypsum board on the garage side of the ceiling or room framing.

3. Openings between an attached garage and the CBRF shall be protected by a self−closing 1−3/4 inch solid wood core door or an equivalent self−closing fire−resistive rated door.

4. The garage floor shall be pitched away from the CBRF and at its highest point shall be at least 1−1/2 inches below the floor of the CBRF.

5. When a required exit leads into a garage, the garage shall have at least a 32" service door to the outside.

(b) *Detached garages.* A detached garage shall either be located a minimum of 3 feet from the CBRF or shall comply with the requirements for attached garages under par. (a).

(c) *Detached utility buildings.* A utility building in which fueled, motorized vehicles and appliances such as snow−mobiles, power lawn mowers, motorcycles, and snow blowers are stored shall either be located a minimum of 3 feet from the CBRF or shall comply with the requirements for attached garages under par. (a).

(3) SMOKE SEPARATION. (a) A door shall be provided at any interior stair between the basement and the first floor. The door shall be provided with a positive latch and an automatic closing device and normally shall 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. 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.

(b) Any shaft such as a clothes chute, dumbwaiter or laundry chute leading to the basement, as defined under chs. Comm 61 to 65, shall be provided with a door on each level above the lowest floor. The door shall be provided with 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.

(c) Exposed polyurethane and polystyrene surfaces are prohibited.

Note: The prohibition of polyurethane and polystyrene surfaces does not include varnish finishes properly applied to woodwork.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−97; **correction in (3) (b) made under s. 13.93 (2m) (b) 7., Stats., Register December 2003 No. 576.**

HFS 83.52 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 a sprinkler system, combined with an interconnected or radio frequency 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 83.52.

Table 83.52
Minimum Type of Construction by Class of Licensure
For CBRFs With 3 or Fewer Habitable Floors

	Class of Licensure		
	AA	AS, ANA	CA, CS, CNA
Number of Habitable Floors	Construction Type	Construction Type	Construction Type
1	3	3	2
2	3	1	1
3	3	1	1

Note: Refer to applicable commerce codes for detailed descriptions of the requirements for each type of construction. Typical requirements are as follows:

Construction Type 1. Typical fire−resistive construction (Comm class 1 or 2) consists of exterior walls of concrete or masonry, floors and roof of fireproofed steel or concrete and interior partitions of concrete block or steel studs.

Construction Type 2. Typical metal frame protected construction (Comm class 3 modified) consists of structural parts and enclosing walls of masonry in combination with other noncombustible material.

Construction Type 3. Typical wood frame unprotected construction (Comm class 8) consists of exterior walls of wood studs covered with siding (metal or wood), brick, stone, slate, etc., wood floors and roof, and interior partitions of wood stud and plaster or drywall.

(b) A class AS, ANA, CA, CS or CNA facility with no more than 2 habitable floors may use type 3 construction under Table 83.52 if it has a sprinkler system under s. HFS 83.43 (7) combined with an interconnected or radio frequency smoke detection system under s. HFS 83.43 (1) or (2). A class AS, ANA, CA, CS or CNA facility with no more than 3 habitable floors may use type 2 construction under Table 83.52 if it has a sprinkler system under s. HFS 83.43 (7) combined with an interconnected or radio frequency smoke detection system under s. HFS 83.43 (1) or (2). Alternatively, for class AS and ANA facilities only, the bedrooms and congregate dining and living area for blind, nonambulatory, semiambulatory or physically disabled residents shall be on the first floor.

Note: See s. HFS 83.43 (7) (d) regarding the need for a department review of sprinkler plans, an on−site inspection and a fee for these services.

(c) A CBRF of any type of construction initially licensed for a class CA, CS or CNA occupancy on or after January 1, 1997 shall have a sprinkler system under s. HFS 83.43 (7), except as provided under s. HFS 83.44.

(d) No CBRF with 3 habitable floors above grade which is built of wood frame under chs. Comm 61 to 65 as Comm class 8 construction and is not protected by a complete automatic sprinkler system under NFPA 13, may use the third habitable floor for sleeping, eating, cooking or habitable rooms for residents, respite care residents, other occupants, employees, the licensee or any relatives, except that storage or office space for the licensee or employees may be located on that floor. When the building is sprinklered, the sprinkler system shall have residential sprinkler heads in all bedrooms, apartments, all other habitable rooms and corridors.

(e) Any CBRF which meets the requirement of type 1 construction in Table 83.52 and is not sprinklered shall have either an area of rescue assistance under sub. (3) or be approved by the department for horizontal evacuation under s. HFS 83.53 (1) (b) on each floor which does not have 2 grade level or ramped exits when residents who are not capable of negotiating stairs without assistance reside on the floor.

(f) A CBRF shall have no more than 3 habitable floors unless it complies with current s. Comm 51.03 (1) or (2), except as specified under par. (g).

Note: Comm 51.03 was repealed eff. 7−1−02.

(g) A CBRF with 4 habitable floors may be licensed for any of the class C categories on the bottom floor, as class CA or CS on the second floor and as class AA on the top 2 floors if the building meets the construction requirements under s. Comm 51.03 (4) as Comm class 4 or s. Comm 51.03 (5) as Comm class 5A, is protected by a complete automatic sprinkler system under NFPA 13 and has a smoke detection system under s. HFS 83.43. The sprinkler system shall have residential sprinkler heads in all bedrooms, apartments, all other habitable rooms and corridors.

Note: Comm 51.03 was repealed eff. 7−1−02.

(h) A CBRF that does not occupy an entire building and is located above the second story of a building of more than 3 stories shall comply with all of the following:

1. The building shall be in compliance with s. Comm 51.03 (1) or (2).

Note: Comm 51.03 was repealed eff. 7−1−02.

2. The entire building shall be equipped with a complete automatic sprinkler system under NFPA 13. The sprinkler system shall have residential sprinkler heads in all bedrooms, apartments, all other habitable rooms and corridors.

(3) AREA OF RESCUE ASSISTANCE. (a) A room to be used as an ARA shall not be a bedroom or a room for the private use of any resident, other occupant, employee, licensee or a relative of any resident, other occupant, employee or licensee.

(b) The ARA shall be constructed of at least one−hour rated fire resistive construction. Where the room exits into an enclosed stairwell which 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.

(c) 1. Doors in the ARA shall be tight−fitting smoke− and draft−control assemblies having a fire−protection rating of at least one hour and shall be self−closing or automatic closing.

2. A room to be used as an ARA shall have an exit door directly to an exit enclosure such as a stairwell or fire escape which leads directly to the outside.

3. The door leading into the ARA from the residential area shall be unlocked at all times. Where the ARA is a room, the door between the ARA and an exit enclosure shall be equipped with hardware that unlocks and opens with one hand and one motion from the ARA side of the door.

(d) Each stairway adjacent to an ARA shall have a minimum clear width of 48 inches between handrails.

(e) Two−way communication from the ARA and identification of the ARA shall be provided as required by the department.

(f) 1. Each ARA shall provide a space for each person who would need the ARA in an emergency as follows:

a. Not less than 30 inches by 48 inches for each person who uses a wheelchair for mobility.

b. Not less than 30 inches by 36 inches for each person who uses a walker, cane or crutch to provide assistance in walking.

c. Not less than 30 inches by 24 inches for each person who does not use any assistive device for mobility or walking but is not capable of negotiating stairs without assistance.

2. The measurements in subd. 1. a. to c. shall be determined after deducting the space covered by the door swing if the swing is into the ARA and the space needed for a passageway through the ARA of at least 2 feet 8 inches in width.

(g) The number of residents not able to negotiate stairs who are housed on each floor level required to have a ARA shall be limited to the number of spaces provided in the ARA on that floor.

Note: It is suggested that at least one staff person remain with the residents in the ARA until the fire department tells the staff person to leave the building or until the staff person determines they are in immediate danger.

(h) A CBRF with an ARA shall notify the local fire department of the CBRF's emergency evacuation plan, including the use and location of each ARA, and the potential number of residents and staff who would use each ARA.

Note: See s. HFS 83.63 for additional fire protection requirements for CBRFs licensed for 21 or more residents.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−97; **correction in (2) (d) made under s. 13.93 (2m) (b) 7., Stats., Register December 2003 No. 576.**

HFS 83.53 Exiting. (1) NUMBER AND TYPE OF EXITS AND PASSAGEWAYS. (a) All habitable floors, shall have at least 2 primary means of exit which provide unobstructed travel to the outside, except that a small class AA facility with no more than 2 habitable floors may have one exit from the second floor if all of the following requirements, in addition to those in s. HFS 83.43, are met:

1. Smoke detectors are located in all habitable rooms, except kitchens and bathrooms, and in the basement as defined under chs. Comm 61 to 65.

2. Heat detectors are located in all areas specified under s. HFS 83.43 (5) and any other enclosed space attached to the home, such as a storage room or shed, but not including crawl spaces.

3. All smoke and heat detectors are part of the same interconnected or radio frequency system.

(b) A CBRF may use internal horizontal evacuation when the building has horizontal exits defined under chs. Comm 61 to 65. The CBRF shall have approval from the department before including internal horizontal exiting in the emergency plan under s. HFS 83.42 (3).

(c) Exits shall be standard exit doors to grade, stairways as specified in chs. Comm 61 to 65 or fire escapes.

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http://docs.legis.wisconsin.gov/code/admin_code

(d) No exit passageway may be through a resident room or bath or toilet room.

(e) 1. Exit passageways, stairways to the outside exit, exit doors and doors in exit passageways shall be no less than 2 feet 8 inches in width, and 6 feet 4 inches in height, except that in class AA facilities existing passageways, stairways and doors shall be at least 2 ft. 4 inches in width.

2. In class AS, ANA, CA, CS and CNA CBRFs in which blind, nonambulatory or semiambulatory residents are housed, exit passageways and stairways to primary exits shall be constructed to permit use of stretchers in an emergency.

(f) The required width of passageways and stairways to outside exits shall be maintained clear and unobstructed at all times.

(2) DOORS EXCEPT PATIO DOORS. (a) All doors shall have the fastenings or hardware that are needed to open them from the inside with one hand and one motion without the use of a key.

(b) Closet doors shall be openable from the inside.

(c) All doors equipped with locks shall be designed to permit opening of the locked doors from either side in case of emergency.

(3) PATIO DOORS. A patio door which could be used as a supplementary exit in an emergency, in addition to the required primary exits, 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. Other locking devices approved by the department may be used.

(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.

(c) Furniture and other obstacles which would interfere with exiting shall not be placed in front of the patio door.

(d) A cleared pathway shall be maintained to a safe distance away from the building as specified under s. HFS 83.51 (1) (e).

(4) STAIRS. (a) All required interior and exterior exit stairways shall have a minimum tread width, exclusive of nosing or projection, of 9 inches and a maximum riser height of 8 inches.

(b) One or more handrails, not less than 30" nor more than 34" above the nose of the tread, shall be provided on all stairways. Handrails shall be provided on the open sides of stairways and platforms. CBRFs licensed prior to January 1, 1997 shall have handrails at least 29" above the nose of the tread.

(c) 1. Winders in stairways shall be provided with handrails on both sides, at least 29 inches above the nose of the tread.

2. 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.

(d) Spiral stairs are prohibited for use as required exit stairs.

(5) LIGHTING. All exit passageways and stairways shall be capable of being lighted at all times.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−97; **corrections in (1) (a) 1., (b) and (c) made under s. 13.93 (2m) (b) 7., Stats., Register December 2003 No. 576.**

HFS 83.54 Windows. (1) MINIMUM SIZE. Every living and sleeping room shall have at least one outside window with a total sash area of at least 8% of the floor area of the room. That window shall be openable. The openable area of the window shall be equal to not less than 4% of the floor area of the room.

(2) MINIMUM OPENING FOR SLEEPING ROOMS. At least one outside window in a sleeping room shall be openable from the inside without the use of tools.

(3) STORM WINDOWS AND SCREENS. Except for insulated windows, all windows serving habitable rooms shall be provided with storm windows in winter. Storm windows shall be openable from the inside without the use of tools. All openable windows serving habitable rooms shall be provided with insectproof screens in summer.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−97.

HFS 83.55 Electrical service and fixtures. (1) GENERAL. (a) Every CBRF shall be supplied with electrical service, wiring, outlets and fixtures which shall be properly installed and shall be maintained in good and safe working condition.

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

(2) PROTECTION. (a) The branch circuits shall be protected by S−type or equivalent safety type, tamper−proof fuses, or circuit breakers not to exceed the ampere capacity of the smallest wire size in the circuit.

(b) Ground fault interrupt protection shall be required in all bathroom outlets, in all outlets on the exterior of the facility and in the garage.

(3) MINIMUM NUMBER OF FIXTURES AND OUTLETS. The minimum number of fixtures and outlets shall be as follows:

(a) Every bathroom, kitchen or kitchenette, dining room, laundry room and furnace room shall contain at least one approved ceiling or wall−type electric light fixture equipped with sufficient lamps or tubes to provide no less than 5 foot candles at floor level at center of room. Where more than one fixture is used or required, the additional fixture or fixtures shall be equally spaced as far as practical. A switched outlet may be substituted for a ceiling or wall fixture in bathrooms and dining rooms.

(b) Electric duplex outlet receptacles shall be provided as follows:

1. Living room, one per 75 sq. ft. of floor area with a minimum of 2.

2. Dining room, one per 75 sq. ft. of floor area with a minimum of 2.

3. 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 sq. ft. of floor area. Separate outlets shall be provided for refrigerators.

4. Bedroom, one per 75 sq. ft. of floor area with a minimum of 2.

5. Laundry room, one.

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

7. Other habitable rooms, minimum of 2.

(4) OUTLET AND SWITCH LOCATIONS AND EXPOSED WIRING. (a) *Outlets*. Electrical outlets shall be located to minimize the use of extension cords.

(b) *Extension cords*. 1. When extension cords are required, they shall be rated appropriately for the ampere capacity of the appliance being used.

2. When the electrical circuit is not equipped with a circuit breaker, the extension cord shall be equipped with a circuit breaker.

3. Extension cords shall not extend beyond the room of origin, shall not be a substitute for permanent wiring, shall not be located beneath rugs or carpeting and shall not be located across any pathway.

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

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

(e) *Safety*. Electrical cords and appliances shall be maintained in a safe condition. Frayed wires, cracked or damaged switches, plugs and electric fixtures shall be repaired or replaced.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−97.

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HFS 83.56 Construction requirements for new CBRF and additions. (1) COMPLIANCE WITH APPLICABLE DEPARTMENT OF COMMERCE REQUIREMENTS. All newly constructed CBRFs for 9 or more residents and new additions to existing buildings for 9 or more residents shall meet the relevant requirements affecting new construction found in chs. Comm 61 to 65. Plan review by the department of commerce is required for both new construction and additions to existing buildings for CBRFs of 9 or more residents.

(2) PLAN REVIEW. All construction plans for new CBRFs of any size and any additions to existing buildings shall be reviewed and approved by the department before construction. Plans shall be drawn to scale. The fees required for plan review services under sub. (3) apply to plan reviews under this section.

Note: Plan reviews to determine compliance with the applicable rules in ch. HFS 83 are done by professional engineers in the Department's Division of Supportive Living, Bureau of Quality Assurance. There is an application form and a fee is assessed for a plan review. Plans should be sent to the Bureau of Quality Assurance, Hospital and Health Services Section, P.O. Box 2969, Madison, WI 53701, or call (608) 266−8084.

(3) FEES FOR PLAN REVIEW SERVICES. (a) The fees established in this subsection shall be paid to the department for providing the plan review services under sub. (2), ss. HFS 83.43 (7) (d), 83.63 (2) and 83.65 (1). The department may withhold providing services to parties who have past due accounts with the department for plan review services. The department shall charge a CBRF a fee according to the following schedule:

1. For projects with an estimated dollar value of less than $5,000, a fee of $100;

2. For projects with an estimated dollar value of at least $5,000 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; and

7. For projects with an estimated dollar value of over $5 million, a fee of $5,000.

(b) 1. The department shall charge a handling fee of $50 per plan to the submitting party for any plan which is submitted to the department, entered into the department's system and then the submitting party requests that it be returned prior to review.

2. The department may charge a photocopying fee of 25 cents per page to anyone who requests copies of construction or remodeling plans, except that a fee of $5 per plan sheet shall be charged for reproduction of plan sheets larger than legal size.

(4) CONSTRUCTION REQUIREMENTS FOR ALL NEW CBRF. All newly constructed CBRFs shall comply with the following additional construction requirements:

(a) The accessibility requirements for Classes AS, ANA, CS and CNA in Table 83.45 shall be met.

(b) All required exits shall be barrier−free. Exit pathways may include stairs only for facilities serving ambulatory residents capable of negotiating stairs.

(c) All public spaces shall be accessible to persons who use wheelchairs.

(d) Accessibility to bathing and toilet rooms shall meet the requirements in Table 83.45.

(e) At least one toilet and one sink and one bathtub or shower shall be provided for every 8 residents and other occupants or fraction thereof.

(f) When substantial remodeling of an existing building is undertaken which equals or exceeds 50% of the current equalized value, the accessibility standards in Table 83.45 shall be incorporated.

(g) Doorways and passage openings shall have a width of not less than 2 feet 8 inches clear, and there shall be at least 18 inches of free wall space adjacent to the latch side of a door.

(h) All door hardware shall be lever handled except where panic hardware that permits opening a door by a single push of a bar or plate is provided. Cabinet and drawer handles shall be metal loop or equivalent. Hardware for other features including windows shall accommodate persons whose reach and manual strength are limited.

(i) Bathing facilities shall be either a curbless shower or a tub capable of becoming equipped with transfer seat. The shower shall be constructed to be able to accommodate a transfer seat when needed. The shower head shall be a movable type with an adjustable height mounting bar.

(j) Electrical switches, receptacles and other devices shall be mounted at least 18 inches above the floor but no more than 48 inches above the floor.

(k) Controls on cooking units used by semiambulatory or nonambulatory residents shall be located at the front of the unit.

Note: Regulations implementing the Americans with Disabilities Act (PL 101−336) contain additional accessibility requirements that apply to CBRFs. These are contained in 28 CFR Part 36 for privately owned and operated facilities and 28 CFR Part 35 for government−owned or operated facilities.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−97; **corrections in (1) made under s. 13.93 (2m) (b) 6. and 7., Stats., Register December 2003 No. 576.**

Subchapter VII — Additional Requirements for Facilities With More Than 20 Residents

HFS 83.61 Scope. This subchapter applies to facilities of 21 or more residents. It consists of requirements that are in addition to the requirements found in ss. HFS 83.01 to 83.56.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−97.

HFS 83.62 Physical environment. (1) BEDROOMS. (a) The area per resident requirements in Table 83.41 apply.

(b) All resident rooms shall be numbered on or near the door.

(c) Bedrooms may not be located in unconnected satellite buildings.

(2) BATH AND TOILET FACILITIES. Separate bath and toilet facilities shall be provided for male and female residents unless used by a married couple. The minimum ratios shall be as follows: one bath, one toilet and one sink for every 8 female residents or fraction thereof, and one bath, one toilet and one sink for every 8 male residents or fraction thereof.

(3) TELEPHONE. There shall be at least one non−pay telephone on the premises for emergency purposes.

(4) LAUNDRY FACILITIES. A laundry room shall be provided unless commercial laundry facilities are used. All soiled linen shall be placed in nonabsorbent closed containers. Where commercial laundries are used, a separate room for sorting, processing and storing clean and soiled linen shall be provided.

(5) OFFICE. The CBRF shall have an office. Resident records shall be kept in the office.

(6) ADMINISTRATIVE SPACE. Administrative office space, the medicine storage area, therapy rooms and maintenance rooms shall be provided with furnishings essential for the proper use of the room.

(7) EMPLOYEE STORAGE SPACE. Facilities shall be provided for employees' personal belongings when on duty. These facilities shall not be located in the kitchen.

(8) VENTILATION. The kitchen, bathrooms, janitor closets and soiled linen rooms shall be ventilated.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−97.

HFS 83.63 Fire protection. (1) SPRINKLER SYSTEM REQUIREMENT. (a) All large CBRFs initially licensed on or after January 1, 1997 shall be protected by a complete automatic sprinkler system under s. HFS 83.43 (7), except a class AA facility which has no more than 2 habitable floors and is licensed to serve

no more than 30 residents who are alcoholic or drug dependent or clients of a governmental corrections agency.

(b) All large CBRFs initially licensed prior to January 1, 1997 of nonfire−resistive construction shall be protected by a complete automatic sprinkler system except a class AA facility which has an equivalent safety system approved by the department.

Note: See s. HFS 83.52 (2) (e) which requires as area of rescue assistance or horizontal exiting in certain unsprinklered facilities when residents are unable to negotiate stairs.

(2) SPRINKLER SYSTEM PLAN REVIEW. The requirements for the review and approval of final plans and calculations for sprinkler systems under s. HFS 83.43 (7) (d), for payment of a fee for plan review services under s. HFS 83.56 (3) and for installation, inspection and maintenance of sprinkler systems under s. HFS 83.43 (7) (b) apply to sprinkler systems installed under this section.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−97.

HFS 83.64 Sanitation. (1) PHYSICAL FACILITIES. (a) *Doors and windows.* All room openings to the outside shall be effectively screened and doors shall be self−closing.

(b) *Ventilation.* All rooms in which food is stored, prepared or served, or in which utensils are washed, shall be well−ventilated except refrigerated storage rooms.

(2) UTENSIL CLEANING. (a) *Sink requirements.* 1. A 2−compartment sink for manual dishwashing is permitted for existing CBRFs only.

2. A 3−compartment sink for washing, rinsing and sanitizing utensils, with adequate drain boards at each end, is required for all new facilities and at the time of replacing sinks in existing CBRFs. In addition, a single−compartment sink located adjacent to the soiled utensil drain board is required for prewashing. The additional sink may also be used for liquid waste disposal. The size of each sink compartment shall be adequate to permit immersion of at least 50% of the largest utensil used. In lieu of the additional sink for prewashing, a well−type garbage disposal with overhead spray wash may be provided.

(b) *Prewashing.* Prewashing of dishes shall be an integral part of manual utensil washing operations.

(c) *Washing.* After prewashing, the utensils shall be washed in hot water at a temperature of 100°F. or above containing an adequate amount of an effective soap or detergent. Water shall be kept clean by changing it frequently. Following washing, all utensils shall be rinsed in clean water to remove soap and detergent.

(d) *Sanitizing.* Following washing, all utensils shall be sanitized by one of the following methods:

1. Submerge all utensils for 30 seconds in clean water maintained at a temperature of 170°F. or more.

2. Submerge all utensils for at least 2 minutes in a hypochlorite solution with a chlorine concentration continuously maintained at 100 parts per million, or other sanitizing solutions used in a concentration in accordance with the manufacturer's instructions. All sanitizing solutions shall be prepared fresh before their use in sanitizing the dishes used at each main meal period, and at least twice each day if only glassware is sanitized. Soaps, water softeners, washing compounds and detergents shall not be added to sanitizing solutions. Utensils shall be racked in baskets so that all surfaces will be reached by the sanitizing solution while submerged, and after sanitizing they shall be placed on a rack or drain board to air dry.

(e) *Thermometer.* A suitable thermometer shall be provided for frequent determination of the temperature of the water used for sanitizing, washing and rinsing utensils.

(f) *Mechanical dishwashing and sanitizing procedures.* 1. Utensils shall be stacked in racks or trays to avoid overcrowding and to ensure that there is complete washwater contact with all surfaces of each article.

2. The washwater temperature of the utensil washing machine shall be held at from 130° to 150°F. The utensils shall be in the washing section for at least 20 seconds.

3. A detergent shall be used in all utensil washing machines.

4. For sanitizing in a spray−type machine, dishes shall be subjected to a rinse period of 10 seconds or more at a temperature in the washing component of the machine of at least 180°F. Automatic chemical sanitizing may be substituted. When automatic chemical sanitizing is used, one of the following maintenance procedures shall be used and a log shall be maintained of the type of procedure used and the date it was used:

a. Preventive maintenance on the automatic chemical sanitizing system recommended by the manufacturer, at the frequency recommended by the manufacturer to determine the effectiveness of the sanitization process.

b. Testing the effectiveness of the sanitizing solution at least once per month using chemical strips designed for this purpose.

5. For sanitizing in an immersion−tank type machine, dishes shall be submerged for 30 seconds or more with water at a temperature of 170°F. or more. There shall be a constant change of water through the inlet and overflow.

6. Home type dishwashers are not permitted.

7. Thermometers shall be located in both the wash compartment and rinse water line at the machine so as to be readily visible. Thermostatic control of the temperature of the wash and rinse water shall be provided in the new equipment. Temperature gauges shall be readily visible, fast−acting and accurate to +2 or −2°F.

8. The pressure of the water used in spray washing and rinsing shall be 15 to 25 pounds per square inch at the machine nozzles.

9. All utensils shall be air dried in racks or baskets or on drain boards.

(3) STORAGE OF TOXIC COMPOUNDS. Poisonous compounds, including domestic poisons, shall be stored independently under lock and key and separately from food and kitchenware as well as drugs and medicine.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−97.

HFS 83.65 Maintenance and construction. (1) SUBMISSION OF PLANS. (a) Plans for the construction of new buildings, additions to existing buildings, conversion of existing buildings to a CBRF, or for major remodeling or alterations of existing buildings shall be submitted to and approved by the department before construction or conversion is begun. These plans shall show the general arrangement of the buildings, including a room schedule and fixed equipment for each room and a listing of room numbers, together with other pertinent information.

(b) Plans shall be drawn to scale.

(c) At least one on−site inspection shall be conducted by a department engineer to ensure that the building is being constructed according to department−approved plans. The department shall not issue a license until it verifies that construction of the building complies with the approved plans.

(d) The fees required for plan review services under s. HFS 83.56 (3) apply to plan reviews under this section.

Note: Plan reviews are done by professional engineers in the Department's Division of Disability and Elder Services, Bureau of Quality Assurance. There is an application form and a fee is assessed Department's for a plan review. Plans should be sent to the Bureau of Quality Assurance, Health Services Section, 2917 International Lane, Suite 300, Madison, WI 53704, or call (608) 243−2024.

(2) VENTILATION. Where mechanical ventilation is provided, the resident area corridors and the lounge, dining, therapy and recreation areas shall be under positive pressure.

(3) VERTICAL OPENINGS. (a) Any stairwell, atrium, vertical shaft or vertical opening shall be of at least one−hour fire resistive construction with one−hour rated self−closing fire doors at each floor, except that any building of fire resistive construction and any building of 3 or more stories shall have 2−hour fire resistive

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enclosures for all openings with class B fire doors at each floor. No atriums, vertical shafts or vertical openings, except elevators and stairwells, may open directly to a corridor.

(b) In new construction the room in which a chute terminates shall be of 2−hour fire−resistive construction with a class B fire door.

(c) Sprinkler heads shall be provided at the top of each linen or trash chute and also in the rooms in which the chute terminates.

(4) WINDOWS. In new construction the bottom sill of windows in a resident's room shall be 3 feet or less from the floor.

(5) DOORS. In new construction toilet room doors shall not swing into the toilet room and shall be provided with two−way hardware.

(6) CORRIDOR WIDTH. (a) In new construction all corridors in resident areas shall be at least 5 feet wide. In existing buildings the minimum corridor width may be less than 5 feet but not less than 4 feet.

(b) There shall be no more than 150 feet of corridor without a barrier against the lateral passage of smoke.

History: Cr. Register, July, 1996, No. 487, eff. 1−1−97.