

## CHAPTER 50

## UNIFORM LICENSURE

|       |   |       |   |
|-------|---|-------|---|
|       | SUBCHAPTER I  |       |   |
|       | CARE AND SERVICE RESIDENTIAL FACILITIES                   |       |   |
| 50.01 | Community-based residential facilities                    | 50.39 | Exemptions and enforcement.   |
| 50.02 | Licensing and regulation of nursing homes                 |       | SUBCHAPTER III  |
| 50.03 | Licensing, powers and duties                              |       | HOTELS, RESTAURANTS AND VENDING OF  |
|       | SUBCHAPTER II   |       | FOODS AND BEVERAGES   |
|       | HOSPITALS   | 50.50 | Definitions.  |
| 50.20 | Name of act.  | 50.51 | Permit.   |
| 50.21 | Definitions.  | 50.52 | Vending machine commissary outside the state.                                 |
| 50.22 | General powers and duties.                                | 50.53 | Fees.   |
| 50.23 | Health policy.  | 50.54 | Application.  |
| 50.24 | Survey and planning activities.                           | 50.55 | Rules of health and safety.   |
| 50.25 | State hospital construction plan.                         | 50.56 | Hotel safety.   |
| 50.26 | Construction program.                                     | 50.57 | Powers of department.   |
| 50.27 | Minimum standards for hospital maintenance and operation. | 50.58 | Causing fires by tobacco smoking.   |
| 50.28 | Priority of projects.                                     | 50.59 | Penalty.  |
| 50.29 | Construction projects; applications.                      | 50.60 | Authority of department of industry, labor and human relations.               |
| 50.30 | Consideration and forwarding of applications.             | 50.61 | Joint employment.   |
| 50.31 | Inspection of projects.                                   | 50.70 | Suspension or revocation of permit.   |
| 50.32 | Hospital regulation and approval act.                     | 50.71 | Court review.   |
| 50.33 | Definitions.  | 50.80 | Hotelkeeper's liability.  |
| 50.34 | Purpose.  | 50.81 | Hotelkeeper's liability for baggage; limitation.                              |
| 50.35 | Application and approval.                                 | 50.82 | Liability of hotelkeeper for loss of property by fire or theft; owner's risk. |
| 50.36 | Rules and standards.                                      | 50.83 | Persons with communicable disease not to be guest; penalty.                   |
| 50.37 | Emergency service classification.                         | 50.84 | Hotel rates posted; rate charges; special rates.                              |
| 50.38 | Council on hospital regulation and approval.              | 50.85 | Motel rates.  |

Note: Chapter 50 of the statutes is printed as affected by Ch. 413, laws of 1975, which was published on June 5, 1976. Sections 50.01 and 50.03 were created by Ch. 413; 50.02 was renumbered from 146.30 (1), (2), (4) and (4m); 50.20 to 50.39 were renumbered from 140.10 to 140.29; 50.50 to 50.61 were renumbered from 160.01 to 160.10; 50.70 and 50.71 were renumbered from 160.21 and 160.22; and 50.80 to 50.85 were renumbered from 160.31 to 160.37. The effective date of Ch. 413 was stated in section 20 as follows:

"The department shall promulgate rules under section 50.01 within one year of the effective date of this act. The act shall take effect upon implementation of the rules so promulgated."

## SUBCHAPTER I

## CARE AND SERVICE RESIDENTIAL FACILITIES

**50.01 Community-based residential facilities.** (1) DEFINITIONS. (a) "Community-based residential facility" means a place where 3 or more unrelated adults reside in which care, treatment or services above the level of room and board but less than skilled nursing care is provided to persons residing in the facility. Such care, treatment or services is provided as a primary function of such facility.

(b) "Primary function" means the basic or essential care, treatment or services provided to residents of a facility.

(2) DEPARTMENTAL AUTHORITY. (a) Except as provided in s. 50.03 (2) (b) and (4) (a), the

department shall have exclusive authority to register, license, inspect and regulate community-based residential facilities.

(b) The department shall establish several levels and types of community-based residential care facilities as provided in s. 50.03 (1) (a), including a category or categories designed to enable facilities to qualify for federal funds.

History: 1975 c. 413.

**50.02 Licensing and regulation of nursing homes.** (1) DEFINITIONS. As used in this section, unless a different meaning appears from the context:

(a) A "nursing home" means any building, structure, institution, boarding home, convalescent home, agency or other place, not limited by enumeration, for the reception and care or treatment for not less than 72 hours in any week of 3 or more unrelated patients who by reason of disability, whether physical or mental, including mental retardation and mental illness, are in need of nursing home services. To the extent that a county institution provides "nursing home" services as described in this paragraph, it shall be deemed a nursing home under this section. "Nursing home" does not otherwise include institutions under the jurisdiction of or subject to the supervision of the department, including but not limited to child care institutions, child care

centers, day care centers, day nurseries, nursery schools, foster homes and group foster homes for adults or children, child welfare agencies, child placing agencies, mental health clinics, tuberculosis sanatoria, maternity homes, maternity hospitals, hotels, and general and special purpose hospitals, except any part thereof which comes within the definition of a "nursing home". A "nursing home" shall not include the offices of persons licensed by the state to treat the sick. The reception and care or treatment in a household or family of a person related by blood to the head of such household or family, or to his or her spouse, within the degree of consanguinity of first cousin, shall not constitute the premises to be a "nursing home". The reception and care or treatment of a person in a convent or facility owned or operated exclusively by and for the members of a religious order shall not constitute the premises to be a "nursing home".

(c) "Patient" means individuals cared for or treated in any nursing home, irrespective of how admitted.

(f) "Rule" has the meaning ascribed in s. 227.01.

(2) **STANDARDS.** The department may develop, establish and enforce standards for the care, treatment, health, safety, rights, welfare and comfort of residents in nursing homes and for the construction, general hygiene, maintenance and operation of nursing homes, which, in the light of advancing knowledge, will promote safe and adequate accommodation, care and treatment of such residents in nursing homes; and promulgate and enforce rules consistent with this section. Such standards and rules shall provide that intermediate care facilities, as defined under volume 45, Code of Federal Regulations, part 249, which have 15 or fewer beds shall, if exempted from meeting certain physical plant, staffing and other requirements of the federal regulations, be exempted from meeting the corresponding provisions of the state's standards and rules. The standards and rules shall provide that if such an intermediate care facility meets the sanitation and safety requirements of the federal regulations, the facility shall be deemed to have met the sanitation and safety requirements of the state's nursing home regulations.

(3) **LICENSING, INSPECTION AND REGULATION.** The department shall register, license, inspect and regulate nursing homes as provided in s. 50.03.

(4) **LICENSED ADMINISTRATOR REQUIRED.** No nursing home within the state may be allowed to operate except under the supervision

of an administrator licensed under ch. 456 by the nursing home administrators examining board.

**History:** 1971 c. 125, 161; 1973 c. 122, 323, 327, 333; 1975 c. 119, 260; 1975 c. 413 ss. 5 To 8

### 50.03 Licensing, powers and duties. (1)

**CONSIDERATIONS IN ESTABLISHING HEALTH AND SAFETY STANDARDS.** (a) In setting standards, the department shall consider the residents' needs and abilities, the increased cost in relation to proposed benefits to be received, the services to be provided by the facility, the relationship between the physical structure and the objectives of the program conducted in the facility and the primary functions of the facility.

(b) The department shall promulgate rules to establish a procedure for waiver of standards developed under this section. The department may limit the duration of the waiver.

(2) **ADMINISTRATION.** (a) The department shall make or cause to be made such inspections and investigations as it deems necessary.

(b) With approval of the department, the county board of any county having a population of 500,000 or more may, in an effort to assure compliance with this section, establish a program for the inspection of facilities licensed under this section within its jurisdiction. If a county agency deems such action necessary after inspection, the county agency may, after notifying the department, withdraw from the facility any persons receiving county support for care in a facility which fails to comply with the standards established by this section or rules established under this section.

(c) If the department, after considering the recommendation of a welfare director of any county or after evaluating information provided by inspection personnel, determines that an emergency exists which jeopardizes any person's health, safety or welfare, the department may immediately withdraw or may authorize the county to withdraw from the facility any person who receives county or state support for care in a facility licensed under this section which fails to comply with the standards established by this section or by the rules promulgated under this section.

(3) **APPLICATION FOR REGISTRATION AND LICENSE.** (a) Registration shall be in writing in a form specified by the department and shall contain such information as the department requires.

(b) The application for a license shall be in writing upon forms provided by the department and shall contain such information as the department requires.

(4) **ISSUANCE OF LICENSE.** (a) The department shall issue a license if it finds the applicant to be fit and qualified, and if it finds that the

facility meets the requirements established by this section. The department, or its designee, shall make such inspections and investigations as are necessary to determine the conditions existing in each case and shall file written reports. The department may designate and use full-time city or county agencies as its agents in making such inspections and investigations, including such subsequent inspections and investigations as are deemed necessary or advisable. The department shall reimburse the city or county furnishing such service at the rate of \$25 per year per license issued in such municipality.

(b) Unless sooner revoked or suspended, a license shall be reviewed annually on a date set by the department upon filing by the licensee and approval by the department of an annual report and application for renewal.

(c) Unless sooner revoked or suspended, a license shall be valid for one year. Annually at such time and in such form as the department requires, the applicant shall submit an annual report and application for renewal of the license. If the report and application are approved, the license shall be renewed for an additional one-year period. If application for renewal and a complete annual report are not timely filed, the department shall issue a warning to the licensee. If application for renewal is not made within 30 days thereafter, the license shall be canceled.

(d) The department, after due notice to the applicant or licensee, may deny any application or suspend or revoke a license in any case in which it is found that there has been substantial failure to comply with this section or rules established under this section.

(e) Each license shall be issued only for the premises and persons named in the application and shall not be transferable or assignable. The license shall be posted in a conspicuous place in the community-based residential facility. Any license granted shall state the maximum bed capacity allowed, the person to whom the license is granted, the date, the expiration date, the minimal services which the institution shall provide as a condition of its licensure and such additional information and special limitations as the department, by rule, may prescribe.

**(5) DENIAL, SUSPENSION OR REVOCATION OF LICENSE; NOTICE.** The department, after notice to the applicant or licensee, may deny, suspend or revoke a license in any case in which the department finds that there has been a substantial failure to comply with the requirements of this section and the rules established under this section. No state or federal funds passing through the state treasury shall be paid to a facility not having a valid license issued under this section.

**(6) FAILURE TO REGISTER OR OPERATING WITHOUT LICENSE; PENALTY.** No person may conduct, maintain, operate, or permit to be maintained or operated a facility required to be licensed under this section unless such facility is licensed within a period of time specified by the department. Any person who violates this subsection shall be fined not more than \$100 for the first offense and not more than \$200 for each subsequent offense, with each day of continuing violation constituting a separate offense.

**(7) RIGHT OF INJUNCTION.** (a) *Licensed facility.* Notwithstanding the existence or pursuit of any other remedy, the department may, upon the advice of the attorney general, maintain an action in the name of the state in the circuit court for injunction or other process against any licensee, owner, operator, administrator or representative of any owner of a facility to restrain and enjoin the repeated violation of any of the provisions of this section or rules adopted by the department under this section where the violation affects the health, safety or welfare of the residents.

(b) *Unlicensed facility.* Notwithstanding the existence or pursuit of any other remedy, the department may, upon the advice of the attorney general, maintain an action in the name of the state for injunction or other process against any person or agency to restrain or prevent the establishment, management or operation of any community-based residential facility without a license or without being registered.

(c) *Enforcement by counties maintaining inspection programs.* The county board of any county conducting inspections under sub. (2) (b) may, upon notifying the department that a community-based residential facility is in violation of this section or the rules established under this section, authorize the district attorney to maintain an action in the name of the state in circuit court for injunction or other process against such residential facility, its owner, operator, administrator or representative, to restrain and enjoin repeated violations where such violations affect the health, safety or welfare of the residents.

**(8) FORFEITURE.** Any person acting or claiming to act in behalf of the owner of a facility who violates this section or any rule adopted by the department under this section shall forfeit not less than \$10 nor more than \$1,000 for each such offense, with each day of violation constituting a separate offense.

**(9) EXCEPTION FOR CHURCHES OPPOSED TO MEDICAL TREATMENT.** Nothing in this section shall be so construed as to give authority to supervise or regulate or control the remedial care or treatment of individual patients who are adherents of a church or religious denomination

**50.03 UNIFORM LICENSURE**

1048

which subscribes to the act of healing by prayer and the principles of which are opposed to medical treatment and who are residents in any facility operated by a member or members, or by an association or corporation composed of members of such church or religious denomination, if the facility admits only adherents of such church or denomination and is so designated; nor shall the existence of any of the above conditions alone militate against the licensing of such a home or institution. Such facility shall comply with all rules and regulations relating to sanitation and safety of the premises and be subject to inspection thereof. Nothing in this subsection shall modify or repeal any laws, rules and regulations governing the control of communicable diseases.

**(10) UNIFORM ACCOUNTING SYSTEM.** The department shall establish a uniform classification of accounts and accounting procedures for each level of licensure which shall be based on generally accepted accounting principles and which reflect the allocation of revenues and expenses by primary functions, to be used by the department in carrying out this subsection. Each facility subject to this subsection shall satisfactorily establish with the department by a date set by the department that it has instituted the uniform accounting system as required in this subsection or is making suitable progress in the establishment of each system. Failure to do so shall make the nursing home or other facility subject to the penalties of sub. (6).

History: 1975 c. 413.

**SUBCHAPTER II****HOSPITALS**

**50.20 Name of act.** Sections 50.20 to 50.31 may be cited as the "Wisconsin Hospital Survey and Construction Act".

History: 1975 c. 413 ss. 4, 18.

**50.21 Definitions.** As used in sections 50.20 to 50.31:

**(1)** "The federal act" means Title VI of the public health service act as now and hereafter amended.

**(2)** "The surgeon general" means the surgeon general of the public health service of the United States.

**(3)** "Hospital" includes public health centers, medical facilities and general, tuberculosis, mental, chronic disease and other types of hospitals and related facilities, such as laboratories, outpatient departments, nurses' home and training facilities, but not in limitation thereof by enumeration, and central service facilities operated in connection with hospitals, but does

not include any hospital furnishing primarily domiciliary care.

**(4)** "Public health center" means a publicly owned facility for the provision of public health services, including related facilities such as laboratories, clinics, and administrative offices operated in connection with public health centers.

**(5)** "Nonprofit hospital" means any hospital owned and operated by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

**(6)** "Medical facilities" means diagnostic or diagnostic and treatment centers, rehabilitation facilities and nursing homes as defined in the federal act, and such other facilities for which federal aid may be authorized under the federal act.

History: 1975 c. 413 ss. 4, 18.

**50.22 General powers and duties.** In carrying out the purposes of ss. 50.20 to 50.31, the department is authorized and directed:

**(1)** To require such reports, make such inspections and investigations and prescribe and enforce such rules as it deems necessary;

**(2)** To provide such methods of administration and take such other action as may be necessary to comply with the requirements of the federal act and the regulations thereunder;

**(3)** To procure in its discretion the temporary or intermittent services of experts or consultants or organizations thereof, by contract, when such services are to be performed on a part-time or fee-for-service basis and do not involve the performance of administrative duties;

**(4)** To the extent that it considers desirable to effectuate the purpose of ss. 50.20 to 50.31, to enter into agreements for the utilization of facilities and services of agencies and institutions, public or private;

**(5)** To accept on behalf of the state and to deposit with the state treasurer any grant, gift or contribution made to assist in meeting the cost of carrying out the purposes of ss. 50.20 to 50.31, and to expend the same for such purposes;

**(6)** To make an annual report to the governor on activities and expenditures pursuant to ss. 50.20 to 50.31, including recommendations for such additional legislation as the department considers appropriate to furnish adequate hospital, clinic and similar facilities to the people of this state.

History: 1975 c. 39 ss. 626, 732 (3) and (3m); 1975 Ex. Order No. 24; 1975 c. 413 ss. 4, 18.

**50.23 Health policy.** The division of health policy and planning, prior to the effective date

specified by the governor for the treatment of s. 15.103 (1) by chapter 39, laws of 1975, and the department thereafter shall constitute the sole agency of the state for the purpose of:

(1) Making an inventory of existing hospitals, surveying the need for construction specified in ss. 50.24 and 50.25; and

(2) Developing and administering a state plan for the construction of public and other nonprofit hospitals specified in ss. 50.26 to 50.31.

History: 1975 c. 39; 1975 c. 413 ss. 4, 18; 1975 c. 422 s. 163.

**50.24 Survey and planning activities.** The department is authorized and directed to make an inventory of existing hospitals, including public, nonprofit and proprietary hospitals, to survey the need for construction of hospitals, and on the basis of such inventory and survey, to develop a program for the construction of such public and other nonprofit hospitals as will, in conjunction with the existing facilities, afford the necessary physical facilities for furnishing adequate hospital, clinic and similar services to all the people of the state. The department is authorized to make application to the surgeon general for federal funds to assist in carrying out the survey and planning activities.

History: 1975 c. 39 s. 732 (3) and (3m); 1975 Ex. Order No. 24; 1975 c. 413 s. 4.

**50.25 State hospital construction plan.** The department shall prepare and submit to the surgeon general a state plan which shall include the hospital construction program developed under s. 50.24 and which shall provide for the establishment, administration and operation of hospital construction activities in accordance with the requirements of the federal act and regulations thereunder, and shall make the plan or a copy thereof available upon request to all interested persons or organizations. The department shall review the hospital construction program and submit to the surgeon general any modifications thereof which it finds necessary and not inconsistent with the requirements of the federal act.

History: 1975 c. 39 s. 732 (3) and (3m); 1975 Ex. Order No. 24; 1975 c. 413 ss. 4, 18.

**50.26 Construction program.** The construction program shall provide, in accordance with regulations prescribed under the federal act, for adequate hospital facilities for the people residing in this state and in so far as possible for their distribution throughout the state in such manner as to make all types of hospital service reasonably accessible to all persons in the state.

History: 1975 c. 413 s. 4.

**50.27 Minimum standards for hospital maintenance and operation.** The department

shall by regulation prescribe minimum standards for the maintenance and operation of hospitals which receive federal aid for construction under the state plan.

History: 1975 c. 39 s. 732 (3) and (3m); 1975 Ex. Order No. 24; 1975 c. 413 s. 4.

**50.28 Priority of projects.** The plan shall set forth the relative need for the several projects included in the construction program determined in accordance with regulations prescribed pursuant to the federal act, and provide for the construction, insofar as financial resources available therefor and for maintenance and operations make possible, in the order of such relative need.

History: 1975 c. 413 s. 4.

**50.29 Construction projects; applications.** Applications for hospital construction projects for which federal funds are requested may be submitted to the department by the state or any political subdivision thereof, or by any public or nonprofit agency authorized to construct and operate a hospital. Each application for a construction project shall conform to federal and state requirements.

History: 1975 c. 39 s. 732 (3) and (3m); 1975 Ex. Order No. 24; 1975 c. 413 s. 4.

**50.30 Consideration and forwarding of applications.** The department shall afford to every applicant for a construction project an opportunity for a fair hearing. If the department, after affording reasonable opportunity for development and presentation of applications in the order of relative need, finds that a project application complies with s. 50.29 and is otherwise in conformity with the state plan, it shall approve such application and shall recommend and forward it to the surgeon general.

History: 1975 c. 39 s. 732 (3) and (3m); 1975 Ex. Order No. 24; 1975 c. 413 ss. 4, 18.

**50.31 Inspection of projects.** From time to time the department shall inspect each construction project approved by the surgeon general and, if the inspection so warrants, it shall certify to the surgeon general that work has been performed upon the project, or purchases have been made, in accordance with the approved plans and specifications, and that payment of an instalment of federal funds is due to the applicant.

History: 1975 c. 39 s. 732 (3) and (3m); 1975 Ex. Order No. 24; 1975 c. 413 s. 4.

**50.32 Hospital regulation and approval act.** Sections 50.32 to 50.39 shall constitute the "Hospital Regulation and Approval Act".

History: 1975 c. 413 ss. 4, 18.

**50.33 UNIFORM LICENSURE**

**50.33 Definitions.** Whenever used in ss. 50.32 to 50.39:

(1) (a) "Hospital" means any building, structure, institution or place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment of and medical or surgical care for 3 or more nonrelated individuals hereinafter designated patients, suffering from illness, disease, injury or deformity, whether physical or mental, and including pregnancy and regularly making available at least clinical laboratory services, and diagnostic X-ray services and treatment facilities for surgery, or obstetrical care, or other definitive medical treatment.

(b) "Hospital" may include, but not in limitation thereof by enumeration, related facilities such as outpatient facilities, nurses', interns' and residents' quarters, training facilities and central service facilities operated in connection with hospitals.

(c) "Hospital" includes "special hospitals" or those hospital facilities providing primarily one type of medical or surgical care such as, but not in limitation thereof, orthopedic hospitals, children's hospitals, mental hospitals, psychiatric hospitals or maternity hospitals.

(3) "Governmental unit" means the state, any county, town, city, village, or other political subdivision or any combination thereof, department, division, board or other agency of any of the foregoing.

History: 1975 c. 413 ss. 4, 18.

**50.34 Purpose.** The purpose of ss. 50.32 to 50.39 is to provide for the development, establishment and enforcement of rules and standards for the construction, maintenance and operation of hospitals which, in the light of advancing knowledge, will promote safe and adequate care and treatment of patients in such hospitals.

History: 1975 c. 413 ss. 4, 18.

**50.35 Application and approval.** After January 1, 1966, application for approval to maintain a hospital shall be made to the department on forms provided by it. On receipt of an application, the department shall issue a certificate of approval if the applicant and hospital facilities meet the requirements established by the department. This approval shall be in effect until, for just cause and in the manner herein prescribed, it is suspended or revoked. The certificate of approval shall be issued only for the premises and persons or governmental unit named in the application and shall not be transferable or assignable. The department shall not withhold, suspend or revoke approval unless for a substantial failure to comply with ss. 50.32

to 50.39 or the rules and standards adopted by the department after giving a reasonable notice, a fair hearing and a reasonable opportunity to comply.

History: 1975 c. 413 ss. 4, 18.

**50.36 Rules and standards.** (1) The department shall promulgate, adopt, amend and enforce such rules and standards for hospitals for the construction, maintenance and operation of the hospitals deemed necessary to provide safe and adequate care and treatment of the patients in the hospitals and to protect the health and safety of the patients and employes; and nothing contained herein shall pertain to a person licensed to practice medicine and surgery or dentistry. The building codes and construction standards of the department of industry, labor and human relations shall apply to all hospitals and the department may adopt additional construction codes and standards for hospitals, provided they are not lower than the requirements of the department of industry, labor and human relations. Except for the construction codes and standards of the department of industry, labor and human relations and except as provided in s. 50.39 (3), the department shall be the sole agency to adopt and enforce rules and standards pertaining to hospitals.

(2) Any person granted a license to practice medicine and surgery under ss. 448.05 and 448.06 shall be afforded an equal opportunity to obtain hospital staff privileges. No such person shall be denied hospital staff privileges solely for the reason that the person is an osteopathic physician and surgeon. Each individual hospital shall retain the right to determine whether the applicant's training, experience and demonstrated competence is sufficient to justify the granting of medical staff privileges.

(4) The department shall make or cause to be made such inspections and investigation, as are reasonably deemed necessary to obtain compliance with the rules and standards. It shall afford an opportunity for representatives of the hospitals to consult with members of the staff of the department concerning compliance and noncompliance with rules and standards.

History: 1971 c. 211; 1975 c. 383 s. 4; 1975 c. 413 ss. 4, 18; 1975 c. 421.

**50.37 Emergency service classification.**

(1) **DEFINITION.** In this section "area-wide comprehensive health planning agency" means a governmental agency or a private nonprofit corporation which meets the requirements of the federal partnership for health act, P.L. 89-749, as amended, and which has been designated by the state comprehensive health planning agency

under that act as an area-wide comprehensive health planning agency.

(2) **REGIONAL PLANS FOR EMERGENCY MEDICAL SERVICES.** Each area-wide comprehensive health planning agency shall develop a plan for the provision of emergency medical services within the area.

(3) **STATE RESPONSIBILITY.** The department shall assist the area-wide comprehensive health planning agencies in the development of emergency medical service plans.

History: 1973 c. 321; 1975 c. 413 s. 4.

**50.38 Council on hospital regulation and approval.** The council on hospital regulation and approval shall develop and recommend a uniform code of rules and standards for the consideration of the department and advise the department in matters of policy affecting the adoption, amendment, interpretation and enforcement of rules and standards authorized under ss. 50.32 to 50.39. The council shall review proposed rules and revisions of rules and make recommendations to the department.

History: 1975 c. 413 ss. 4, 18.

**50.39 Exemptions and enforcement.** (1) Sections 50.32 to 50.39 and the rules adopted pertaining thereto shall apply to all facilities coming under the definition of a "hospital" which are not specifically exempt by ss. 50.32 to 50.39.

(2) The use of the title "hospital" to represent or identify any facility which does not meet the definition of a "hospital" as provided herein or is not subject to approval under ss. 50.32 to 50.39 is prohibited, except that institutions governed by ss. 51.08, 51.09 and 149.01 are exempt.

(3) Facilities now governed by ss. 45.365, 48.62, 49.14, 49.171, 50.02, 51.08, 51.09, 51.36 [Stats. 1971], 58.06, 149.01, 149.02, 149.06 and the offices and clinics of persons licensed to treat the sick under chs. 446, 447 and 448 are exempt from ss. 50.32 to 50.39 and nothing in this act shall abridge the rights of the medical examining board, dentistry examining board, pharmacy examining board and board of nursing in carrying out their statutory duties and responsibilities.

(4) All orders issued by the department pursuant to ss. 50.32 to 50.39 shall be enforced by the attorney general. The circuit court of Dane county shall have jurisdiction to enforce such orders by injunctive and other appropriate relief.

History: 1971 c. 164; 1975 c. 39; 1975 c. 413 ss. 4, 18; 1975 c. 430 s. 80.

### SUBCHAPTER III

#### HOTELS, RESTAURANTS AND VENDING OF FOODS AND BEVERAGES

**50.50 Definitions.** As used in this chapter:

(1) "Hotel" means all places wherein sleeping accommodations are offered for pay to transients, in 5 or more rooms, and all places used in connection therewith. "Hotelkeeper", "motelkeeper" and "innkeeper" are synonymous and "inn", "motel" and "hotel" are synonymous.

(a) The department may classify any hotel as herein defined as a "motel" on written request of the hotel operator on forms furnished by the department, provided that the operator of the hotel furnishes on-premise parking facilities for the motor vehicles of the hotel guests as a part of the room charge, without extra cost.

(2) "Tourist rooming house" means and includes all lodging places and tourist cabins and cottages, other than hotels, wherein sleeping accommodations are offered for pay to tourists or transients. It does not include private boarding or rooming houses, ordinarily conducted as such, not accommodating tourists or transients.

(3) "Restaurant" means any building, room or place wherein meals or lunches are prepared or served or sold to transients or the general public, and all places used in connection therewith. "Meals or lunches" shall not include soft drinks, ice cream, milk, milk drinks, ices and confections. The serving in taverns of free lunches consisting of popcorn, cheese, crackers, pretzels, cold sausage, cured fish or bread and butter shall not constitute such taverns to be restaurants. The term "restaurant" does not apply to churches, religious, fraternal, youths' or patriotic organizations, service clubs and civic organizations which occasionally prepare or serve or sell meals or lunches to transients or the general public nor shall it include any public or private school lunchroom or private individual selling foods from a movable or temporary stand at public farm sales.

(4) "Vending machine" as used in this chapter means any self-service device offered for public use which, upon insertion of a coin or token, or by other means, dispenses unit servings of food or beverage either in bulk or in package, without the necessity of replenishing the device between each vending operation. The term "vending machine" shall not include devices which dispense only bottled or prepackaged or canned soft drinks or one cent vending devices or vending machines dispensing only candy, gum, nuts, nut meats, cookies or crackers, nor shall it apply to prepackaged Grade A pasteurized milk

or milk products. Bulk milk dispensers may be operated in a restaurant licensed by the department without an additional vending machine or vending machine operator permit being required. The serving of food or beverage through a licensed vending machine shall not constitute the operation of a restaurant.

(5) "Vending machine location" means the room, enclosure, space or area where one or more vending machines are installed and operated.

(6) "Vending machine operator" means the person maintaining a place of business in the state and responsible for the operation of one or more vending machines.

(7) "Vending machine commissary" means any building, room or place in the state at which the food, beverage, ingredients, containers, transport equipment or supplies for vending machines are kept, handled, prepared or stored by a vending machine operator. A licensed restaurant may be operated as a vending machine commissary without a vending machine commissary permit. A vending machine commissary does not mean any place at which the operator is licensed to manufacture, distribute or sell food products under ch. 97.

(8) "Public health and safety" means the highest degree of protection against infection, contagion or disease and freedom from the danger of fire or accident that can be reasonably maintained in the operation of a hotel, restaurant, tourist rooming house, vending machine or vending machine commissary.

(9) "Department" means the department of health and social services.

(10) "Establishment" means a hotel, tourist rooming house, restaurant or vending machine commissary.

History: 1973 c. 190; 1975 c. 189; 1975 c. 413 s. 13.

**50.51 Permit.** (1) No person shall conduct, maintain, manage or operate a hotel, restaurant, tourist rooming house, vending machine commissary or vending machine as defined in s. 50.50 who has not been issued an annual permit by the department.

(2) A separate permit shall be required for each type of establishment as defined in s. 50.50.

(3) A separate permit shall be required for each establishment excepting where more than one of the same type is operated on the same premises and under the same management a single permit for each type shall suffice.

(4) Permits shall not be transferable from one premise to another or from one person to another, except that a permit for "temporary restaurant" as defined by the department may be transferred to a premise other than that for which it was issued, provided that approval of the new premise is secured from a department

representative prior to operation of the temporary restaurant at the new premise.

(5) All permits shall expire on June 30.

(6) Separations caused by a public highway shall not be considered in determining whether tracts of land constitute a single premise. A single premise includes tracts of an owner which merely corner on each other.

History: 1975 c. 413 ss. 13, 18

**50.52 Vending machine commissary outside the state.** Foods, beverages and ingredients from commissaries outside the state may be sold within the state if such commissaries conform to the provisions of the food establishment sanitation rules of this state or to substantially equivalent provisions. To determine the extent of compliance with such provisions, the department may accept reports from the responsible authority in the jurisdiction where the commissaries are located.

History: 1975 c. 413 s. 13

**50.53 Fees.** (1) The annual fee for all places coming under the definition of a hotel shall be \$20 for those having 30 or less sleeping rooms and \$40 for those with more than 30 sleeping rooms.

(2) The annual fee for all places coming under the definition of a tourist rooming house shall be \$10.

(3) The annual fee for all places coming under the definition of a restaurant shall be \$20 if anticipated gross annual food sales are less than \$5,000, and shall be \$40 if anticipated gross annual food sales are \$5,000 or more.

(4) The annual fee for a vending machine operator is \$10. The annual fee for a vending machine commissary is \$40. The annual fee for each vending machine is \$4.

(5) An additional penalty fee of \$10 shall be required for each permit whenever the annual fee for renewal is not paid prior to expiration of the permit.

(6) In the administration and enforcement of this chapter, the department may designate and use full-time city or county health departments as its agents in making inspections and investigations. When such designation is made and such services are furnished, the department shall reimburse the city or county furnishing such service at the rate of 50% of the net license fee per license per year issued in such municipality.

(7) (a) The department shall not grant a permit to a person intending to operate a new hotel, tourist rooming house or restaurant or to a person intending to be the new operator of an existing hotel, tourist rooming house or restaurant without a preinspection.



(b) The preinspection fee for a restaurant or a hotel shall be \$25.

(c) The preinspection fee for a tourist rooming house shall be \$10.

(d) This subsection shall not apply to a "temporary restaurant" as defined by rule of the department.

History: 1973 c. 333; 1975 c. 224; 1975 c. 413 s. 13.

**50.54 Application.** (1) An applicant for a hotel, tourist rooming house, restaurant, vending machine commissary, vending machine operator or vending machine permit shall complete an application furnished by the department and provide such information as it requires.

(2) Upon receipt of an application for a vending machine operator permit, the department may cause an investigation to be made of the applicant's commissary, servicing and transport facilities, if any, and representative machines and machine locations. The operator shall maintain at his place of business within this state a list of all vending machines operated by him and their location. This information shall be kept current and shall be made available to the department upon request. The operator shall notify the department of any change in operations involving new types of vending machines or conversion of existing machines to dispense products other than those for which such machine was originally designed and constructed.

History: 1975 c. 413 s. 13.

**50.55 Rules of health and safety.** Every hotel, tourist rooming house, restaurant, vending machine commissary and vending machine shall be operated and maintained with a strict regard to the public health and safety and in conformity with this chapter and the rules and orders of the department.

History: 1975 c. 413 s. 13.

**50.56 Hotel safety.** (1) Every hotel with sleeping accommodations with more than 12 bedrooms above the first story shall, between the hours of 12 midnight and 6 a.m. provide a system of watchman patrol, or of mechanical and electrical devices, or both, adequate, according to standards established by the department of industry, labor and human relations, to warn all guests and employes in time to permit their evacuation in case of fire.

(2) Every hotel shall offer to every guest, at the time of registration for accommodation and of making a reservation for accommodation, an opportunity to identify himself or herself as a person needing assistance in an emergency because of a physical condition and shall keep a record at the registration desk of where each

person so identified is lodged. No hotel may lodge any person so identified in areas other than those designated by the local fire department as safe for persons so identified, based on the capabilities of apparatus normally available to the fire company or companies assigned the first alarm. A person who does not identify himself or herself as permitted in this subsection may be lodged in the same manner as any other guest. Violation of this subsection shall be punished by a forfeiture of not more than \$50 for the first violation and not more than \$100 for each subsequent violation.

History: 1975 c. 112, 199; 1975 c. 413 s. 13.

**50.57 Powers of department.** The department shall appoint assistants with such qualifications as it deems necessary and fix their compensation, administer and enforce the rules and the laws relating to the public health and safety in hotels, tourist rooming houses, restaurants, vending machine commissaries, vending machines and vending machine locations, ascertain and prescribe what alterations, improvements or other means or methods are necessary to protect the public health and safety therein, prescribe rules and fix standards, including rules covering the general sanitation and cleanliness of the vending machine commissary and vending machines and their location and servicing, and enforce such rules and laws.

History: 1975 c. 413 s. 13.

**50.58 Causing fires by tobacco smoking.**

(1) Any person who, by smoking, or attempting to light or to smoke cigarettes, cigars, pipes or tobacco, in any manner in which lighters or matches are employed, shall, in a careless, reckless or negligent manner, set fire to any bedding, furniture, curtains, drapes, house or any household fittings, or any part of any building specified in sub. (2), so as to endanger life or property in any way or to any extent, shall be fined not less than \$50 nor more than \$250, together with costs, or imprisoned not less than 10 days nor more than 6 months or both.

(2) In each sleeping room of all hotels, rooming houses, lodging houses and other places of public abode, a plainly printed notice shall be kept posted in a conspicuous place advising tenants of the provisions of this section.

History: 1975 c. 413 s. 13.

**50.59 Penalty.** Excepting s. 50.84, anyone violating this chapter or any rule or regulation of the department hereunder shall be fined not less than \$25 nor more than \$200; and anyone failing to comply with an order of the department hereunder shall forfeit \$5 for each day of noncompliance after the order is served upon or

directed to him, and in case of action under s. 50.71, after lapse of a reasonable time after final determination.

History: 1975 c. 413 s. 13, 18.

**50.60 Authority of department of industry, labor and human relations.** Nothing in this chapter shall affect the authority of the department of industry, labor and human relations relative to places of employment, elevators, boilers, fire escapes, fire protection, or the construction of public buildings.

History: 1973 c. 413 s. 13.

**50.61 Joint employment.** The department and the department of industry, labor and human relations may employ experts, inspectors or other assistants jointly.

History: 1975 c. 413 s. 13.

**50.70 Suspension or revocation of permit.** The department may refuse or withhold issuance of a permit or may suspend or revoke a permit for violation of any provision of this chapter or any rule, regulation or order of the department.

History: 1975 c. 413 s. 14.

**50.71 Court review.** Orders of the department shall be subject to review in the manner provided in chapter 227.

History: 1975 c. 413 s. 14.

**50.80 Hotelkeeper's liability.** (1) A hotelkeeper who complies with sub. (2) is not liable to a guest for loss of money, jewelry, precious metals or stones, personal ornaments or valuable papers which are not offered for safekeeping.

(2) To secure exemption from liability the hotelkeeper must (a) have doors on sleeping rooms equipped with locks or bolts; (b) offer, by notice printed in large plain English type and kept conspicuously posted in each such room, to receive valuable articles for safekeeping, and explain in such notice that the hotel is not liable for loss unless articles are tendered for safekeeping; (c) keep a safe or vault suitable for keeping such articles and receive them for safekeeping when tendered by a guest, except as provided in sub. (3).

(3) A hotelkeeper is liable for loss of articles accepted for safekeeping up to \$300. He need not receive for safekeeping property over \$300 in value. This subsection may be varied by written agreement between the parties.

History: 1975 c. 413 s. 15.

**50.81 Hotelkeeper's liability for baggage; limitation.** Every guest and intended guest of any hotel upon delivering to the hotelkeeper or to his servants any baggage or other property for

safekeeping (elsewhere than in the room assigned to the guest) shall demand and the hotelkeeper shall give a check or receipt, to evidence the delivery. No hotelkeeper shall be liable for the loss of or injury to the baggage or other property of his guest, unless it was delivered to the hotelkeeper or his servants for safekeeping or unless the loss or injury occurred through the negligence of the hotelkeeper or his servants.

History: 1975 c. 413 s. 15.

**50.82 Liability of hotelkeeper for loss of property by fire or theft; owner's risk.** A hotelkeeper is not liable for the loss of baggage or other property of his guest by fire (not intentional) produced by the hotelkeeper or his servants. Every hotelkeeper is liable for loss of baggage or other property of his guest caused by theft or gross negligence of the hotelkeeper or his servants. Such liability shall not exceed \$200 for each trunk and its contents, \$75 for each valise and its contents and \$10 for each box, bundle or package and contents, so placed under his care; and \$50 for all other effects including wearing apparel and personal belongings, unless he has agreed in writing with the guest to assume a greater liability. When any person suffers his baggage or property to remain in any hotel, after his status as a guest has ceased, or forwards the same to a hotel before becoming a guest and the same is received into the hotel, the hotelkeeper holds such baggage or property at the risk of the owner.

History: 1975 c. 413 s. 15.

**50.83 Persons with communicable disease not to be guest; penalty.** No person is entitled to accommodation at a hotel who has a communicable disease (as determined pursuant to s. 143.01). No person who has had any such disease shall be entitled to such accommodation until all danger of spreading contagion therefrom is past. This section does not authorize compulsory removal of or refusal of shelter to any such person who is receiving accommodation at any hotel, if removal would specially endanger his life or health. Any person who knowingly and wilfully solicits or receives accommodation in violation of this section shall be punished by a fine not exceeding \$100 or by imprisonment not exceeding 6 months.

History: 1975 c. 413 s. 15.

**50.84 Hotel rates posted; rate charges; special rates.** Every hotelkeeper shall keep posted in a conspicuous place in each sleeping room in his hotel, in type not smaller than 12-point, the rates per day for each occupant. Such rates shall not be changed until notice to that

effect has been posted, in a similar manner, for 10 days previous to each change. Any hotelkeeper who fails to have the rates so posted or who charges, collects or receives for the use of any room a sum different from the authorized charge shall be punished by a fine of not less than \$50 nor more than \$100. A hotelkeeper may permit a room to be occupied at the rate of a lower priced room when all of the lower priced rooms are taken and until one of them becomes unoccupied. Special rates may be made for the use of sleeping rooms, either by the week, month or for longer periods or for use by families or other collective groups. The department or its representatives may enforce the posting of rates as provided in this section.

History: 1975 c. 413 s. 15

**50.85 Motel rates.** (1) **DEFINITIONS.** (a) "Outdoor sign" or "outside sign" means any sign visible to passers-by whether the same shall be located within or without buildings.

(b) "Room rates" means the rates at which rooms or other accommodations are rented to occupants.

(c) "Operator" includes a manager or any person in charge of the operation of motels and like establishments. "Operator" or "owner" includes natural persons, firms and corporations.

(2) **RENTAL POSTED.** It is unlawful for any owner or operator of any establishment held out as a motel, motor court, tourist cabin or like accommodation to post or maintain posted on any outdoor or outside advertising sign pertaining to such establishment, any rates for accommodations in such establishment unless the sign shall have posted thereon both the

minimum and maximum room, or other rental unit rates for accommodations offered for rental. All posted rates and descriptive data required by this section shall be in type and material of the same size and prominence as the aforesaid data. This section shall not be held to be complied with by signs stating the rate per person or bearing the legend "and up".

(3) **ACCOMMODATIONS MUST EXIST.** It is unlawful for any owner or operator of any motel, motor court, tourist cabin or like accommodation to post or maintain posted on outdoor or outside advertising signs rates for accommodations in any such establishment unless there shall be available in any such establishment, when vacant, accommodations for immediate occupancy to meet the posted rates on such advertising signs.

(4) **MISREPRESENTATION.** It is unlawful for any owner or operator of any motel, motor court, tourist cabin or like accommodation to post or maintain outdoor or outside advertising signs in connection with any such establishment relating to rates which have thereon any untrue, misleading, false, or fraudulent representations.

(5) **CONSTRUCTION.** Nothing contained in this section shall be construed so as to require such establishments to have outdoor or outside signs. This section shall be liberally construed so as to prevent untrue, misleading, false, or fraudulent representations relating to rates being placed upon outdoor or outside signs pertaining to such establishments.

(6) **PENALTY.** Any person violating this section shall be fined not exceeding \$300, or imprisoned not exceeding 6 months, or both.

History: 1975 c. 413 s. 15.