



Wisconsin Legislative Council

RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 26-005

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Council Staff and the Legislative Reference Bureau, dated November 2020.]

2. Form, Style and Placement in Administrative Code

In s. DCF 57.11, and throughout the proposed rule, lists should be modified so that each subunit following an introduction completes the idea and result in a complete sentence when read with the introduction. [s. 1.11 (2), Manual.]

4. Adequacy of References to Related Statutes, Rules and Forms

a. Consider modifying or deleting the definition of “background check” under s. DCF 57.02 (2). It is not clear from the cross-reference to s. 48.685, Stats., within the definition what the term means, and the term’s usage with the accompanying definition within the rule may create confusion. For example, the rule includes material that directs a group home to “conduct a background check”, but it would not make sense to replace the term with its definition: “conduct the applicable requirements in s. 48.685, Stats.”.

b. Modify the definition of “resident” under s. DCF 57.02 (28) so that it is clear it refers to a person under the jurisdiction of “the court under ch. 48...”, or some similar language, since it is not accurate to describe a person as under the jurisdiction of a chapter of statutes.

c. In s. DCF 57.06 (1) (a), it is not clear what “department guidelines” a person must follow for their annual audit report requirement. Specify further in the rule where a person may view such “department guidelines”, or delete that material.

d. In s. DCF 57.10 (8) (a) 6., consider whether the term “credential” should be further clarified. Does this refer only to a credential issued by a governmental credentialing body?

e. In s. DCF 57.25 (4) (a), should the word “resident” be used instead of “client”?

f. In s. DCF 57.51 (2), consider including the cross-reference to the community advisory committee requirement under s. 48.68 (4), Stats.

g. In s. DCF 57.56, it is not clear who is responsible for the placement of residents if a group home is closed due to summary suspension. The discharge requirements under s. 57.15,

Stats., appear only to contemplate a situation in which a group home has time to prepare for its closure, which do not appear to be the circumstances of a summarily suspended group home closure under s. DCF 57.56.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. It is not clear what age group qualifies as a “youth”, as that term is used within the definition of “respite care” under s. DCF 57.02 (30) and 57.37.

b. In s. DCF 57.09 (1) (a) 8., should further clarification be provided on the circumstances in which a resident’s physical safety is endangered?

c. In s. DCF 57.09 (1) (d), the current text implies that a “serious incident” may occur under either sub. (1) (a) or (b). However, s. DCF 57.09 (1) (b) refers to the death of a resident. Paragraph (d) should be revised for clarity.

d. Section DCF 57.10 (1) requires a licensee to “provide” an organizational chart to the department. When do they have to do this? At the time of licensure? Clarify this requirement.

e. In s. DCF 57.10 (2), consider clarifying whether the required personnel policies should be “written”. Review the entire rule for consistency to clarify whether certain group home policies must be written, since some parts of the rule require things to be written and other parts do not.

f. In s. DCF 57.10 (6) (b), should further action be specified once a licensee obtains a staff member’s driving record? [See, also, proposed s. DCF 57.11 (5).]

g. In s. DCF 57.10 (6) (c), modify the rule so the group home duty is not merely to “request” proof of insurance, but rather, clarify that the duty is to “ensure” or “require the staff member to provide” proof of insurance.

h. In s. DCF 57.10 (7) (a), should further clarification be provided on the conditions that prevent care or threaten health or safety?

i. Section DCF 57.10 (7) (b) 1. and 2. requires extensive modification for clarity. First, avoid the passive voice. Second, is it the department’s intent that a licensee merely “may” require evaluation if it has reason to believe a staff member’s condition poses a threat to residents? Does a licensee have any duty if a medical or mental health provider’s opinion is that the staff member’s condition has a negative effect on residents?

j. In s. DCF 57.10 (8) (a) 3. and 4., what is intended by the term “substantiated”? For example, who is the anticipated decision-maker responsible for this finding? Does “substantiated” connote satisfaction of a particular evidentiary standard?

k. Related to the comment in heading 2., above, in s. DCF 57.10 (8) (a) 4., delete the second use of the word “that” so each subunit following an introduction completes the idea and results in a complete sentence when read with the introduction.

l. In s. DCF 57.11 (2), is the agency’s intent that a reference must be received from a person who is unrelated to the licensee, or that reference providers may not be related to one another, or both? The proposed rule should be revised to clarify its intended effect.

m. In s. DCF 57.12 (4), consider modifying the material so it ends with “prior to making a parenting decision under s. DCF 57.28”, to ensure the application of the training standard applies to any parenting decision.

n. In s. DCF 57.12 (5), the introductory rule text should be revised to clarify whether 24 hours of continuing education is required for each of the topics in pars. (a) to (c). Further, as contemplated in par. (c), is the expiration of certifications under s. DCF 57.12 (3) specified elsewhere in the rule text? Subsection (3) itself does not specify that a certification expires.

o. Section DCF 57.13 (4) implies that a staff member must update the disclosure form every four years; should the proposed rule make this requirement explicit for staff members in the same fashion as volunteers under s. DCF 57.15 (4)?

p. In s. DCF 57.14 (4), it is not clear what “relevant information” a licensee must provide to an employee or contractor.

q. In s. DCF 57.25 (1), remove the extraneous comma and space after “...Stats.,”.

r. In s. DCF 57.36 (2), should the rule text include a deadline for notification? Context suggests such notification would occur sooner than the eight-hour deadline specified for notice under sub. (1).

s. In s. DCF 57.38 (6), avoid the passive voice. Consider modifying this material so it is clear the licensee has a duty to ensure an expectant parent is provided prenatal care.