

CR 87-10

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Revisor of Statutes
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CERTIFICATE

STATE OF WISCONSIN)
) SS
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

I, Timothy F. Cullen, Secretary of the Department of Health and Social Services and custodian of the official records of the Department, do hereby certify that the annexed rules relating to community-based residential facilities were duly approved and adopted by this Department on April 27, 1988.

I further certify that this copy has been compared by me with the original on file in the Department and that this copy is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the State Office Building, 1 W. Wilson Street, in the city of Madison, this 27th day of April, 1988.

SEAL:

Patricia A. Godwin, Deputy Secretary
for Timothy F. Cullen, Secretary
Department of Health and Social Services

ORDER OF THE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
AMENDING, REPEALING AND RECREATING, AND CREATING RULES

To repeal HSS 3.04(2)(a)5 and 3.05(31) to amend HSS 3.04(2)(intro.) and (2)(a)6., 3.05(17), (25) and (30) and 3.23(3)(a); to repeal and recreate HSS 3.05(2) and 3.07(2); and to create HSS 3.04(3)(e) and (f), relating to community-based residential facilities.

Analysis Prepared by the Department of Health and Social Services

Section 50.01(1)(d), Stats., as created by 1985 Wisconsin Act 276, exempts from the definition of community-based residential facility (CBRF) any place which provides lodging for ambulatory individuals and which may also provide to its residents services including board, information, referral, advocacy, job guidance, and social services case management and intervention but excluding personal care and health care. This proposed order modifies ch. HSS 3, rules for CBRFs, to reflect the statutory change primarily by adding the statutory exemption to the list of facilities that are not considered CBRFs and amending the definitions of related terms such as "personal care," "activities of daily living," "health monitoring," and "supervision."

The Department's authority to amend, repeal and recreate and create these rules is set forth in s.50.02(2)(a), Stats. The rules interpret ss.50.02, 50.03 and 50.035, Stats.

SECTION 1. HSS 3.04(2)(intro.) is amended to read:

HSS 3.04(2)(intro.) "~~Occupancy~~ Residency by 3 or more unrelated adults, combined with the provision of care, treatment or services above the level of room and board as a primary function to any one of the unrelated adults shall be sufficient to constitute a place as a CBRF. In determining whether a particular facility is required to be licensed as a CBRF, the following administrative interpretations shall apply:

SECTION 2. HSS 3.04(2)(a)5 is repealed.

SECTION 3. HSS 3.04(2)(a)6 is amended to read:

HSS 3.04(2)(a)6. ~~Prescribed personal~~ Personal care services.

SECTION 4. HSS 3.04(3)(e) and (f) are created to read:

HSS 3.04(3)(e) A place that serves as a residence and meets all of the following conditions:

1. The individuals who reside there are able to walk;

2. The place does not directly provide or contract for any of the following to individuals who reside there:

- a. Personal care;
- b. Psychological, educational, social, chemical, medical or somatic techniques designed to provide care for, control, manage or ameliorate mental illness, alcoholism, drug dependency, a developmental disability, the infirmities of aging or a physical injury or disability.
- c. Management, control or supervision of prescription medication; and
- d. Any services other than information, referral, advocacy, job guidance, location and coordination of social services for which arrangements were made before the individual began to reside in the facility and, in the case of a crisis, arrangement for the provision of social services.

(f) A shelter care facility as defined under s. 46.97(1)(d), Stats.

SECTION 5. HSS 3.05(2) is repealed and recreated to read:

HSS 3.05(2) "Activities of daily living" means activities relating to the performance of self care and leisure or play activities. "Self care" includes dressing, feeding or eating, bathing, grooming, toileting, mobility, object manipulation, ambulation and rest.

SECTION 6. HSS 3.05(17), (25) and (30) are amended to read:

HSS 3.05(17) "Health monitoring" means the observation and documentation of physical health changes and the referral to the responsible health professional when health needs indicate.

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

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

SECTION 7. HSS 3.05(31) is repealed.

SECTION 8. HSS 3.07(2) is repealed and recreated to read:

HSS 3.07(2) A CBRF may admit or retain a person with a need for intermittent nursing care procedures.

SECTION 9. HSS 3.23(3)(a) is amended to read:

HSS 3.23(3) PERSONAL CARE. (a) ~~Supportive home care services~~ Personal care shall be provided or arranged for by the CBRF where indicated by the needs of the residents. These services shall be identified in the residents individual service plan.

The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, as provided in s. 227.22(2), Stats.

Wisconsin Department of Health and
Social Services

Dated: April 27, 1988

By: Patricia A. Lindrich, Deputy Secretary
for Timothy F. Cullen
Secretary

Seal:



State of Wisconsin \

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
1 West Wilson Street, Madison, Wisconsin 53702

Tommy G. Thompson
Governor

Timothy F. Cullen
Secretary

April 27, 1988

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Revisor of Statutes
Bureau

Mailing Address:
Post Office Box 7850
Madison, WI 53707

Mr. Orlan Prestegard
Revisor of Statutes
7th Floor - 30 on the Square
Madison, Wisconsin 53702

Dear Mr. Prestegard:

As provided in s. 227.20, Stats., there is hereby submitted a certified copy of HSS 3, administrative rules relating to community-based residential facilities.

These rules are also being submitted to the Secretary of State as required by s. 227.20, Stats.

Because the rule changes are made to be consistent with a statutory change made by 1985 Wisconsin Act 276, the rules by themselves do not affect small businesses as defined in s. 227.114(1)(a), Stats.

Sincerely,

Patricia A. Gabriel
Deputy Secretary
for Timothy F. Cullen
SECRETARY

Enclosure