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CERTIFICATE

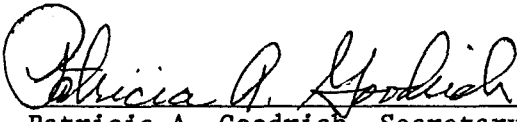
STATE OF WISCONSIN)
) SS
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

I, Patricia A. Goodrich, 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 adult family homes were duly approved and adopted by this Department on October 31, 1989.

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 31st day of October, 1989.

SEAL:



Patricia A. Goodrich, Secretary
Department of Health and Social Services

1-1-90

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OCT 31 1989

ORDER OF THE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
CREATING RULES

Revisor of Statutes
Bureau

To create HSS 82, relating to adult family homes.

Analysis Prepared by the Department of Health and Social Services

A recent session law, 1987 Wisconsin Act 161, created s. 50.032, Stats., which establishes certain adult family homes in law as regulated residential placements. An adult family home as defined in Act 161 is a program for 3 or 4 developmentally disabled adults although there can be more than 4 residents if all are siblings. There can be children as well as adults in these homes if the home is also licensed as a foster home under s. 48.62 Stats., and ch. HSS 56, but there can be no more than a combined total of 4 adults and children except when all of the adults or all of the children are siblings. An adult family home covered by s. 50.032, Stats. must be a private residence, the care provider must live in the home, the home must have been licensed as a foster home for children at least 12 months before any of the residents of the home attained age 18 and no nursing care may be provided by the care provider. Act 161 makes clear that an adult family home is not a community-based residential facility, nor is it a place of employment or a public building regulated under Department of Industry, Labor and Human Relations rules for residential occupancies.

These are rules for certain adult family homes. Under s. 50.032, Stats., as created by 1987 Wisconsin Act 161, no one may operate an adult family home unless the home is certified by an agency of the county in which the home is located or by the Department if no agency in that county has been designated by the county board to certify adult family homes. A county may contract with a private agency to conduct certification activities so long as that private agency does not also recruit and provide services for persons operating adult family homes or for residents of those homes. An adult family home will be certified if it is found to comply with s. 50.032, Stats., and these rules. The rules establish procedures for applying for certification, reviewing and approving an application, certifying a home and decertifying a home; list requirements for sponsors; include standards and requirements for the home, the agreement for services, the individualized service plan, resident care and termination of placement; and, in recognition that the rights and grievance procedure set forth or provided for in s. 51.61, Stats., and ch. HSS 94 apply to residents of adult family homes, require the sponsor to comply with those rights in terms of not doing some things while doing other things and providing residents with access to a grievance procedure as a condition of certification.

The Department's authority to create these rules is found in s. 50.02(2)(am), Stats. The rules interpret ss. 50.02(1), and 50.032, Stats.

SECTION 1. HSS 82 is created to read:

Chapter HSS 82
ADULT FAMILY HOMES

HSS 82.01 Introduction	HSS 82.06 Placement
HSS 82.02 Definitions	HSS 82.07 Resident Care
HSS 82.03 Certification	HSS 82.08 Termination of Placement
HSS 82.04 Sponsor Qualifications	HSS 82.09 Records and Information Requests
HSS 82.05 The Home	HSS 82.10 Resident Rights

HSS 82.01 INTRODUCTION. (1) AUTHORITY AND PURPOSE. This chapter is promulgated under the authority of s. 50.02(2)(am), Stats., to establish standards for the operation of adult family homes in order to protect and promote the health, safety and welfare of persons residing in and receiving care and maintenance in these homes.

(2) APPLICABILITY. This chapter applies to the department, county certifying agencies and contracted certifying agencies and adult family home sponsors and substitute providers.

HSS 82.02 DEFINITIONS. In this chapter:

(1) "Activities of daily living" means:

(a) Activities relating to the performance of self care and engaging in leisure or recreational activities. "Self care" includes dressing, eating, bathing, grooming, toileting, mobility, object manipulation, ambulation and rest;

(b) Activities relating to home and household management, including preparing meals, shopping and chores, personal housekeeping, using the telephone, managing one's personal finances, and health care activities including taking medicine, applying or changing dressings and using a medical device; and

(c) Activities involving movement about in one's community, for purposes that include accessing and participating in vocational, recreational and social activities in the community with other members of the community.

(2) "Adult family home" or "home" means a private residence in which care and maintenance above the level of room and board, but not including nursing care provided by the sponsor, are provided to developmentally disabled adults by a person whose primary domicile is that residence, provided that both of the following conditions apply:

(a) The residence was licensed under s. 48.62, Stats., and ch. HSS 56 as a foster home and all current adult residents resided in the residence at least 12 months before they reached 18 years of age or replaced former

adult residents who resided in the residence sometime during the previous 12 months and who left the residence on a permanent basis; and

(b) There are 3 or 4 developmentally disabled residents, or more than 4 if all are siblings, or the sponsor is currently licensed as a foster home for children and there is a combined total of no more than 4 developmentally disabled adults and children residing there, or more than 4 if all adults or all children are siblings.

(3) "Certifying agency" means a county agency that elects to certify adult family homes located in the county or an agent of a county agency who does not also place residents in any type of residential placement or facility or provide placement assistance services and who is authorized by a county agency to certify adult family homes located in the county, or the department in a county where no county agency has elected to certify adult family homes or to designate an agent to certify adult family homes.

(4) "County agency" means a county department of social services established under s. 46.215 or 46.22, Stats., a county department of human services established under s. 46.23, Stats., a county department of community programs established under s. 51.42, Stats., or a county department of developmental disabilities services established under s. 51.437, Stats.

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

(6) "Developmental disability" has the meaning prescribed in s. 51.01(5) Stats.

(7) "Household member" means any person living in an adult family home, including any resident. "Household" means all household members.

(8) "Nursing care" means services and procedures provided by a registered nurse licensed under ch. 441, Stats., or which require the direct supervision of a registered nurse licensed under ch. 441, Stats.

(9) "Permanent basis" means that a resident of an adult family home has attained 18 years of age, has physically moved himself or herself and his or her possessions out of the home, has established a new residence where he or she intends to remain and has been terminated from the adult family home by the sponsor under s. HSS 82.08.

(10) "Private residence" or "residence" means a house or apartment rented or owned by the sponsor, lived in by the sponsor and not used by the sponsor or anyone else for any business purpose which regularly brings customers to the home so that the residents' use of the home as their residence or the residents' privacy is adversely affected.

(11) "Referring agency" means the agency responsible for placing a resident in an adult family home.

(12) "Resident" means a person who resides in the home and receives care and maintenance provided by the sponsor or substitute provider.

(13) "Service coordinator" means the person who has primary responsibility for arranging, coordinating, managing and monitoring the care and services needed by a resident, including services provided outside of the adult family home.

(14) "Sponsor" means the person certified to operate an adult family home who is responsible for the home, whose primary domicile is the home and who provides care and maintenance to residents of the home.

(15) "Substitute provider" means a person designated by the sponsor to operate and take full responsibility for the adult family home when the sponsor is temporarily absent and cannot provide services or needed supervision.

(16) "Voluntary" means according to a resident's free choice if the resident is competent, or by choice of the resident's guardian if the resident is under guardianship.

HSS 82.03 CERTIFICATION. (1) CERTIFICATION REQUIREMENTS. No person may operate an adult family home unless a certifying agency certifies that the home is in compliance with all requirements of s. 50.032, Stats., and this chapter.

(2) APPLICATION FOR CERTIFICATION. (a) Application for certification or renewal of certification shall be made on a department-approved form provided by the certifying agency. The application form shall be signed by the applicant.

Note: To obtain a copy of the application form, contact the certifying agency in the county in which the prospective adult family home is located or write or call: Program Certification Unit, Bureau of Community Programs, Division of Community Services, P.O. Box 7851, Madison, WI 53707, (608) 266-0120.

(b) No applicant previously denied certification or whose certificate was revoked may reapply for certification within 2 years after the effective date of the notice of denial or revocation unless the applicant documents to the satisfaction of the certifying agency that the condition which caused the denial or revocation has been corrected.

(c) Before an applicant for an initial certificate may be certified to operate an adult family home, the applicant shall submit an application form and any other documentation required by this chapter or requested by the certifying agency to determine whether the applicant complies with this chapter.

(3) APPROVAL PROCESS. The certifying agency shall review the application and supporting documents, interview the applicant and conduct an on-site visit of the home to determine if the requirements for certification set out in this chapter are met. If the requirements for certification set out in this chapter are met, the certifying agency shall issue a certificate of approval to the applicant for the home and shall inform the department that it has issued the certification of approval. If the requirements for certification are not met and, therefore, the certifying agency does not issue a certificate of approval, the applicant and each resident's service coordinator shall be given notice of the decision not to certify the home. The notice to the applicant shall clearly and concisely state the reasons for not approving the application and shall inform the applicant of the opportunity for an administrative review under sub.(7) of the non-approval decision. The certifying agency shall issue the certificate of approval or the notice of denial within 60 days after having received a complete application, all supporting documents and following the on-site visit.

(4) CERTIFICATION AND RECERTIFICATION. (a) The period of certification shall be 12 months.

(b) Certification shall be renewed annually on application if the sponsor continues to comply with this chapter and submits an application for renewal at least 30 days before the expiration of certification. If certification is not renewed, the sponsor shall be given written notice before expiration of certification. The notice shall clearly and concisely state the reasons for not approving the renewal of certification and shall inform the sponsor of the opportunity for an administrative review under sub.(7) of the non-renewal decision.

(c) The sponsor shall report to the certifying agency any of the following changes within 7 days after it occurs and the certifying agency may require an application for recertification:

1. A substantive change in the type or amount of services the sponsor offers to provide if the change adversely affects any resident who needs the service;

2. A change in household members; or

3. A change in the sponsor's or substitute provider's legal status because he or she has been charged with or convicted of any crime which is substantially related to caring for dependent persons.

(d) Certification is not transferable to another sponsor or to another private residence.

(e) The certifying agency may, without notice to the sponsor, visit the home at any time during the period of certification to evaluate the status of resident health, safety or welfare or to determine if the sponsor

continues to comply with this chapter. The sponsor shall provide the certification agency access to the home.

(f) The certifying agency may request fire, health, sanitation or safety officials to inspect the home and premises to assist in evaluating the safety of the home.

(5) EXCEPTIONS TO CERTIFICATION STANDARDS. The certifying agency may grant an exception to any requirement in this chapter except a resident right under s. HSS 82.10 if the sponsor requests the exception in writing and presents a convincing argument that the proposed exception will not jeopardize the health, safety or welfare of residents or violate the rights of residents. The certifying agency shall respond in writing to a request for an exception and shall send the department a copy of the request and its response. An exception may be granted only when strict enforcement would result in hardship for the sponsor, if the exception does not adversely effect the ability of the sponsor or the home to meet the resident's needs and if the exception will not jeopardize the health, safety or welfare of residents or violate the rights of residents. Pursuant to the authority granted to the department in s. 50.02(1), the department may, within 45 days following receipt of a certifying agency's affirmative response to a request for exception, reverse or modify the exception. The department shall give written notice to the certifying agency and the sponsor of its decision to reverse or modify the certifying agency's decision to grant the exception. Any exception cited in the approval may remain in effect for no longer than one year from the date of approval at which time the certifying agency shall determine if there is continued justification for the exception. The certifying agency may impose conditions or time limitations on an exception. Violation of the conditions under which the exception is granted constitutes a violation of these rules.

(6) DECERTIFICATION. (a) The certifying agency, after giving written notice to the sponsor, may decertify an adult family home if the certifying agency finds that the sponsor has substantially and intentionally violated or does not comply with s. 50.032, Stats., or any provision of this chapter.

(b) The notice under par. (a) shall include a clear and concise statement of the basis for decertification, including the specific requirements that have not been met or which have been violated and a notice of the opportunity for an administrative review under sub.(7) of the decertification decision.

(7) ADMINISTRATIVE REVIEW. If an applicant or sponsor desires to contest a decision not to certify a home under sub. (3), not to renew a certification under sub. (4)(b) or to decertify a home under sub. (6), the applicant or sponsor shall, within 15 days after the date of the notice of the decision, submit to the certifying agency a written request for an administrative review of the decision. The request shall include the

applicant's or sponsor's reason why he or she disagrees with the action. The administrator of the certifying agency or his or her designee shall review the facts and send a written decision to the applicant or sponsor and, if the certifying agency is not the department, to the department, within 30 days after receipt of the request for review. If the certifying agency is not the department, the applicant or sponsor may, within 15 days after the date of the certifying agency's decision, submit to the department a written request for an administrative review of the applicant or sponsor's original request and the certifying agency's decision. The department shall review the facts and send a written decision to the applicant or sponsor and to the certifying agency within 45 days after the receipt of the request for review. The department's decision shall be final.

HSS 82.04 SPONSOR QUALIFICATIONS. (1) AGE AND ABILITY. The sponsor and every substitute provider shall be at least 18 years of age and shall be physically, emotionally and mentally capable of providing responsible adult family home care.

(2) PERSONAL QUALIFICATIONS. The sponsor and any substitute provider shall be persons who are responsible, mature and of reputable character, who exercise sound judgment and display the capacity to successfully care for developmentally disabled adults. An applicant for certification or a sponsor requesting renewal of certification shall provide any information requested by the certifying agency to assist in evaluating the applicant's, sponsor's or substitute provider's character and qualifications. In assessing character and qualifications, the certifying agency may consider evidence of abuse or fraud, substantial or repeated violations of applicable or related statutes and rules in the applicant's, sponsor's or substitute provider's operation of or employment in any care facility or service agency, or in the applicant's, sponsor's or substitute provider's care of dependent persons, and conviction within the previous 5 years of a crime substantially related to caring for a dependent population.

(3) FINANCIAL SECURITY. The sponsor shall present evidence of having or having access to sufficient financial reserves to meet the needs of all residents and of all members of the household for whom the sponsor is financially responsible and to ensure the adequate functioning of the home for a period of at least 30 days without receiving payment for the care of any resident.

(4) HEALTH. (a) The sponsor and any substitute provider shall be in good health. Each applicant for initial certification or for recertification shall submit a statement from a physician certifying that a physical examination was completed and that the applicant does not have an illness or condition that would threaten the health, safety or welfare of residents or interfere with the person's capacity to provide care. The statement from a physician may not be dated more than 2 years prior to the date of the application. A statement from a physician which is contained in the applicant's children's foster home records and released by the

applicant to the certifying agency may be substituted for the statement required in this paragraph.

(b) If the certifying agency suspects or has reason to believe that the applicant, sponsor, substitute provider or other household member may pose a threat to the health, safety or welfare of residents, the certifying agency may require a physical examination, an alcohol or drug abuse assessment or a mental health evaluation of the person as a condition of certification or renewal of certification.

(5) VEHICLE LIABILITY INSURANCE. An applicant for initial certification or renewal of certification who plans to transport residents in his or her vehicle shall provide the certifying agency with documentation of current automobile liability insurance coverage and with documentation of renewal so that coverage is in force for the entire term of certification.

(6) TRAINING. (a) Except as provided in pars. (c) and (d), the sponsor shall be enrolled in or have completed 8 hours of department-approved training related to the health, safety, welfare, rights and treatment of developmentally disabled residents during the first year after initial certification.

(b) Except as provided in pars. (c) and (d), the sponsor shall be enrolled in or have completed 12 hours of department-approved training related to health, safety, welfare, rights and treatment of developmentally disabled residents every 2 years beginning with the second year of certification.

(c) The certifying agency may require the sponsor to obtain training in amounts that exceed the minimum amounts required in pars. (a) and (b) and on particular topics that ensure that the sponsor is capable of protecting and promoting resident health, safety and welfare.

(d) The certifying agency may approve alternatives to the training requirements in pars. (a) and (b) if the sponsor requests a waiver and the certifying agency determines that:

1. The person has successfully completed substantially similar or related training;
2. The person has successfully completed course work or an academic degree program related to the care, maintenance and treatment of developmentally disabled persons or other persons in need of care, maintenance or treatment; or
3. The person has acquired substantial and up-to-date knowledge concerning care, maintenance and treatment and health, safety, welfare and rights of persons with developmental disabilities through prior experience as a care provider in licensed or certified programs which are substantially similar to adult family homes.

HSS 82.05 THE HOME. (1) LOCATION AND ACCESS TO THE COMMUNITY. Adult family homes shall be physically located so that residents can easily get to community activities and supportive services by walking or by means of convenient private or public transportation, or the sponsor shall ensure that residents receive the assistance necessary to enable them to get to these activities and services.

(2) RESIDENT ACCESS TO THE HOME AND WITHIN THE HOME. The adult family home shall be physically accessible to all residents of the home. Residents shall be able to easily enter and exit the home, to get to their sleeping rooms and to all common living areas in the home and to easily move about in the home.

(3) HOME ENVIRONMENT. (a) The adult family home shall be safe, clean and well maintained and shall provide a humane and homelike environment.

(b) The home shall be free from hazards and kept uncluttered and free of dangerous substances, insects and rodents.

(c) The home shall have adequate, safe and functioning heating, hot and cold water, fire protection, electrical, plumbing, sewerage and lighting systems.

(d) The home shall have adequate and functioning support services, including refuse removal and access to laundry facilities.

(e) The home shall have adequate ventilation. There shall be at least one window which is capable of being opened to the outside in each resident sleeping room and each common room used by residents. Windows used for ventilation shall be screened during appropriate seasons of the year.

(f) The home shall have sufficient space to accommodate all household activities and members comfortably as follows:

1. There shall be distinct living and sleeping areas separated by permanent solid walls;

2. There shall be at least one bathroom with at least one sink, stool and shower or tub for every 8 household members and sufficient towel rack space for each household member. The door of each bathroom shall have a lock which can be opened from the outside in an emergency;

3. A resident's bedroom shall provide comfort and privacy, shall have a swing door or a pocket door which is stored in a wall when opened, and may accommodate no more than 2 persons. No resident may regularly sleep in a basement bedroom or in a bedroom above the second floor of a single family dwelling unless there are 2 exits to the grade from that floor level. The bedroom shall have a floor area of at least 60 square feet per

occupant. An exception under s. HSS 82.03(5) to this standard is not permitted unless all of the following apply:

a. The resident occupied the space for which the exception is requested when the home was licensed under s. 48.62 Stats., and ch. HSS 56;

b. There is no alternative space in the home that meets these requirements and the exception is necessary to retain the resident's placement;

c. Any adult resident for whom the exception is requested has not replaced a former resident on a permanent basis;

d. Any resident for whom the exception is requested and that person's guardian, if any, has been informed by the service coordinator of alternative placements available at the time the sponsor requests the exception and consents to a floor area of less than 60 square feet in order to retain this placement; and

e. The service coordinator and administrator of the county agency that employs or contracts with the service coordinator approve the exception.

4. A resident's bedroom may not be used by anyone else to get to any other part of the home except for access to an additional bathroom which is not required to meet the standard under subd. 2;

5. There shall be sufficient space and equipment in the kitchen for the sanitary preparation and storage of food;

6. The dining room or area shall be large enough so that all household members may dine together; and

7. Each resident shall be provided conveniently located individual storage space sufficient for hanging clothes and for storing clothing, toilet articles and other personal belongings.

(g) The home shall have clean, functioning and safe household items and furnishings, including:

1. A separate bed for each resident. The bed shall be clean, in good condition and of proper size and height for the comfort of the resident; and

2. Appropriate bedding and linens that are maintained in a clean condition.

(h) The home shall provide for physical and emotional privacy for each resident. Under this paragraph, "physical and emotional privacy" means reasonable privacy in toileting and bathing; keeping and using

personal clothing and possessions; having reasonable privacy in one's room, or in other personally assigned areas; and being free from searches of personal belongings without the resident's permission or permission of the resident's guardian, unless the sponsor has reasonable cause to suspect that the resident possesses items which are illegal or prohibited by the sponsor and the resident is present during the room search.

(i) Residents shall be permitted to choose individual room decorations within reason.

(4) FIRE SAFETY. (a) Every adult family home shall be equipped with one or more fire extinguishers on each floor. Each required fire extinguisher shall have a minimum 2A, 10-B-C rating. All required fire extinguishers shall be mounted. A fire extinguisher is required at the head of each stairway and in or near the kitchen except that a single fire extinguisher located in close proximity to the kitchen and the head of a stairway may be used to meet the requirement for an extinguisher at each location. Each required fire extinguisher shall be maintained in readily usable condition and shall be inspected annually by the certifying agency.

(b) 1. Every adult family home shall be equipped with one or more single station battery operated, electrically interconnected or radio signal emitting smoke detectors on each floor level. Required smoke detectors shall be located at the head of each open stairway, at the door leading to every enclosed stairway, on the ceiling of the living or family room and on the ceiling of each sleeping room in which smoking is allowed.

2. The sponsor shall maintain each required smoke detector in working condition and test each smoke detector periodically to make sure that it is operating. The sponsor shall immediately repair or replace any unit found to be not operating.

(c) The first floor of the home shall have at least 2 means of exiting which provide unobstructed access to the outside.

(d) The sponsor shall have a written plan for the immediate and safe evacuation of the home in the event of a fire. The plan shall identify an external meeting place.

(e) The sponsor shall review the fire safety evacuation plan with each new resident immediately following placement and shall conduct semi-annual fire drills with all household members.

(f) The sponsor shall report to the certifying agency within 72 hours after the event the occurrence of a fire in the home which required the assistance of the fire department.

(5) TELEPHONE. The home shall have at least one telephone in working order which does not require a coin to operate. Residents shall have reasonable access to a phone and be permitted to make any call which they wish and can afford. Emergency telephone numbers, including numbers for the fire department, police, hospital, physician, poison control center and ambulance, shall be located on or near each telephone.

(6) HOUSEHOLD PETS. The home shall maintain vaccinations on pets that are vulnerable to rabies. Pets that pose a threat or hazard to the health, safety or well-being of household members are prohibited.

HSS 82.06 PLACEMENT. (1) NEW RESIDENT. When an adult resident leaves an adult family home on a permanent basis, he or she may be replaced by another adult who is developmentally disabled.

(2) INFORMATION ABOUT THE ADULT FAMILY HOME. (a) The certifying agency shall provide a prospective resident and that person's guardian, service coordinator and referring agency with copies of this chapter upon request and information about any adult family home where a resident has left on a permanent basis and where the sponsor wants the former resident to be replaced. The information about the home shall include any records of previous violations of any rule of which the certifying agency is aware and any complaints made by or on behalf of residents concerning these rules or ch. HSS 94.

(b) The sponsor shall ensure that a prospective resident who is seeking to replace a former resident on a permanent basis is given the opportunity to meet residents and spend time at the home before entering into the agreement for services under sub. (3). This may include visits during the day and overnight stays in the home.

(c) The sponsor shall give at least 30 days written notice to the resident, the resident's guardian, if any, and to all other parties involved in the service agreement under sub. (3) if the sponsor intends to change the amount or mode of payment.

(3) AGREEMENT FOR SERVICES. (a) No resident may be placed in a home or continue in a placement unless the prospective or current resident, the resident's guardian, if any, and the sponsor consent or have consented in writing to the placement. The written consent shall be made part of the service agreement.

(b) The sponsor shall ensure that a written agreement for each resident placed in the home is developed and kept up to date by the service coordinator, referring agency, sponsor or the department. If the referring agency or service coordinator does not develop the service agreement in accordance with this subsection and the sponsor is unable to develop it, the sponsor shall immediately notify the certifying agency and the Department that the resident is placed in the home and lacks an up-to-date service agreement. A current resident may continue in the placement for an

additional 90 days until the department can arrange for or develop the service agreement.

Note: If a resident does not have a service agreement, the sponsor should notify the director of the Developmental Disabilities Office, Bureau of Community Programs, Division of Community Services, P.O. Box 7851, Madison, WI 53707 (608) 266-9328.

(c) The parties to an agreement shall include the resident, the resident's guardian, if any, the sponsor, the referring agency and the service coordinator.

(d) The agreement shall be completed by the end of the seventh day after a new resident enters the home or within 30 days after initial certification for each current resident, shall be signed by and a copy given to all persons listed in par. (b), shall contain the date on which it was signed and an expiration date which may not be more than 12 months from the date on which it was signed and shall be reviewed and updated when it expires. After the seventh day for a new resident and after 30 days following initial certification for a current resident, no resident may maintain his or her placement unless there is an up-to-date service agreement except as provided in par. (b).

(e) In addition to the written consent required in par. (a), the service agreement shall include:

1. Designation of a service coordinator who shall ensure that needed services provided by the sponsor and outside agencies are arranged and monitored;

2. The individualized service plan under sub. (5);

3. A description of the roles, responsibilities and expectations of the sponsor in providing the services that are specified in the individualized service plan under sub. (5), of the resident entering or residing in the home and of the referring agency or service coordinator providing assistance to the resident or sponsor, including whether the service coordinator is responsible for developing, monitoring and updating the service agreement and individualized service plan;

4. The amount, source and method of payment for providing care and maintenance to the resident of the home, specifying any costs for which the resident will be liable and whether the service coordinator agrees to be responsible for meeting the financial security requirement under s. HSS 82.04(3). If the service coordinator is responsible for financial security, the agreement shall describe how resources will be made available to the sponsor in the event that payments to the sponsor for resident care are not received;

5. A statement about who will exercise control over the resident's funds, which shall be a decision of the resident or the resident's guardian, if any, and whether or not those funds will be maintained in a bank account. If the sponsor agrees to exercise control over the resident's funds, the sponsor shall deposit resident funds in a separate bank account opened for the resident if the balance of the resident's personal funds exceed \$200, shall keep records that account for the receipt and expenditure of all of the resident's funds which the sponsor controls, including any interest or dividends earned, and shall provide the resident or the resident's guardian, if any, with an accounting of the resident's funds on request;

6. A statement that the sponsor shall give at least 30 days written notice to all parties involved if the sponsor wants to terminate the placement, change the services or change the charges for services;

7. A description of any personal housekeeping the resident will be required to perform or, if applicable, any compensated work the resident has agreed to do for the sponsor, including the terms of compensation. A resident shall be allowed to refuse work other than personal housekeeping. In this subdivision, "personal housekeeping" means the performance of routine housekeeping and household tasks in areas of the home assigned to the resident or in areas used communally in proportion to the amount of resident use if equitably distributed among all household members capable of performing the necessary tasks. This may include cleaning of common areas, doing the laundry, shoveling snow, cooking, washing dishes and taking care of the lawn;

8. A statement that the resident's rights and the grievance process under s. 51.61, Stats., and ch. HSS 94 have been explained to the resident and to the resident's guardian, if any; and

9. A statement which identifies whether the sponsor, service coordinator, referring agency or county agency is responsible for each of the following functions:

- a. Obtaining informed consent as required under s.HSS 94.03;
- b. Notifying residents of their rights under this chapter and ch. HSS 94; and
- c. Maintaining a grievance procedure which conforms to s. HSS 94.27.

(4) HEALTH ASSESSMENT. (a) Each resident shall have a medical examination by a physician to identify any health problems and to screen for communicable disease within 30 days after placement in the adult family home and annually thereafter unless the resident is being seen regularly by a physician. Sponsors shall keep a written record of all medical examinations and shall retain any reports made by these health care providers.

(b) The sponsor shall immediately notify the service coordinator of any life-threatening, disabling or serious illness or injury sustained by a resident which requires medical treatment or absence from the home for more than 24 hours.

(5) INDIVIDUALIZED SERVICE PLAN. The sponsor shall ensure that a written service plan is developed for each resident within 30 days after initial certification of the home and within 7 days after the placement of a new resident. The plan shall be developed with the resident's service coordinator and with involvement and approval of the resident and the resident's guardian, if any. The sponsor may arrange for the referring agency or service coordinator to develop the plan in accordance with this subsection. The plan shall be:

(a) Developed by the referring agency, service coordinator or the sponsor, with the resident participating in a manner that is appropriate for the resident's level of understanding and method of communication. The plan shall contain a description of the services the sponsor shall provide, shall identify how the resident will obtain access to community activities and services under s. HSS 82.05(1), shall describe the extent of supervision the sponsor will provide and specify whether the resident is capable of being left alone in the home or in the community without supervision and may also contain a description of services provided by other service providers;

(b) Agreed to and signed by all persons involved in developing it, and a copy given to each of these persons;

(c) Monitored by the sponsor or service coordinator, as provided in the plan, to ensure that it is implemented as intended; and

(d) Reviewed at least once every 6 months by the sponsor or by the service coordinator if the service coordinator has agreed to assume this responsibility in the service agreement. This review is to determine continued appropriateness of the plan and to update the plan as necessary. A plan shall be updated whenever the resident's needs or preferences substantially change or when requested by the resident or the resident's guardian.

HSS 82.07 RESIDENT CARE. (1) GENERAL REQUIREMENTS. (a) The sponsor shall provide a safe, emotionally stable, homelike and humane environment which encourages a resident's autonomy, addresses a resident's need for physical and emotional privacy and takes a resident's preferences and choices and status as an adult into consideration while providing care and supervision.

(b) The sponsor shall plan activities and services with the residents to accommodate individual resident needs and preferences and shall provide opportunities for the residents to participate in cultural, religious,

political, social and intellectual activities within the home and community. Residents may not be compelled to participate in these activities.

(c) The sponsor shall allow a resident to participate in all activities that the resident selects and is capable of learning unless the resident's individualized service plan indicates otherwise.

(d) The sponsor shall arrange for a substitute provider when the sponsor is gone overnight or when the sponsor's absence prevents the resident from receiving the services or supervision specified in the individualized service plan developed under s. HSS 82.06(5).

(2) SERVICES. (a) The sponsor shall provide or arrange for the provision of those services specified in the individualized service plan that are the sponsor's responsibility. A resident may refuse any service. Services shall be directed to the goals of assisting, teaching and supporting the resident to promote his or her health, well-being, self-esteem, independence and quality of life and may include:

1. Supervising or assisting residents with or teaching residents about activities of daily living;

2. Providing, arranging, transporting or accompanying residents to leisure and recreational activities; and

3. Monitoring resident health by observing and documenting changes in each resident's health status and referring a resident to health care providers when necessary.

(b) Services that are provided shall be services determined by the sponsor or service coordinator and the resident, or the resident's guardian, if any, to be needed by the resident and within the capability of the sponsor to provide.

(c) A sponsor may not directly and personally provide nursing care to residents. The sponsor may arrange nursing care if the care is needed or if it is specified in the service plan. No more than 2 residents may routinely need or receive nursing care in excess of 7 hours per week. If nursing care in excess of 7 hours per week is routinely required by more than 2 residents, the sponsor shall either notify the certifying agency and each resident's service coordinator in writing that a change of placement is needed for at least one resident or the sponsor shall apply for a license to operate a nursing home. The sponsor is not responsible for finding an alternative placement.

(3) PRESCRIPTION MEDICATIONS. (a) Containers. Every container in which prescription medication is stored shall have a label permanently attached to the outside which lists the name of the person for whom the medication is prescribed, the physician's name, the prescription number,

the name and dosage of the medication, directions for use, the date the medication was issued, an expiration date for time-dated medication, and the name, address and telephone number of the pharmacy from which the medication was obtained.

(b) Control and administration. 1. A resident shall control and administer his or her own medications except when the resident is not able to do so, as determined by the resident's physician, or when the resident or resident's guardian, if any, requests the sponsor's assistance.

2. A resident may not be forced to take medications except by order of a court. If the resident refuses to take a prescribed medication, the sponsor shall inform the resident's guardian and service coordinator about the resident's refusal.

3. For the sponsor to administer any prescription medication, the sponsor shall obtain a written order from the physician who prescribed the medication. The written order from the physician shall specify under what conditions and in what dosages the medication is to be administered.

4. The sponsor may not administer a medication to a resident when there is a court order that directs the resident to take the medication. If the sponsor provides assistance with a medication, the sponsor shall help the resident safely store the medication, take the correct dosage at the correct time and communicate effectively with his or her physician or pharmacist.

(c) Records. Records shall be kept by the sponsor of all prescription medications controlled or administered by the sponsor, which shall show the name of the resident, the name of the particular medication, the date and time of administration by the sponsor and the dose administered.

(4) NUTRITION. (a) The sponsor shall provide each resident with a quantity and variety of foods sufficient to meet the resident's nutritional needs and preferences and to maintain his or her health.

(b) The sponsor shall provide to each resident or ensure that each resident receives 3 nutritious meals each day. This requirement does not apply to the sponsor if a meal is included in other programming in which the resident participates and is paid for by the provider of that programming.

(c) Food shall be prepared in a sanitary manner.

(d) Residents shall be routinely served their meals in common dining areas with other household members.

(e) Meals prepared by the sponsor shall take into account special physical and religious dietary needs of residents.

HSS 82.08 TERMINATION OF PLACEMENT. A sponsor may terminate a resident's placement only after giving the resident, the resident's guardian, if any, and the resident's service coordinator 30 days written notice, except that 30 days notice is not required for an emergency termination necessary to prevent harm to the health and safety of the resident or other household members.

HSS 82.09 RECORDS AND INFORMATION REQUESTS (1) RESIDENT RECORDS. The sponsor shall maintain a record for each resident. Resident records shall be maintained in a secure location within the home. A resident or the resident's guardian shall be given access to the resident's record upon request. The record shall be kept confidential in accordance with s. 51.30, Stats., and ch HSS 92. Each record shall contain:

- (a) The resident's name and date of birth;
- (b) If the resident has a guardian, the name, address and phone number of the guardian;
- (c) The name, address and phone number of every person, including the physician, to be notified in the event of an emergency;
- (d) The name, address and phone number of the referring agency and the service coordinator;
- (e) Medical insurance identification numbers and the name of any pharmacy that the resident uses;
- (f) The agreement for services required under s. HSS 82.06(3);
- (g) The report of the medical examination required under s. HSS 82.06(4);
- (h) The individualized service plan required under s. HSS 82.06(5);
and
- (i) Evidence that the resident and the resident's guardian, if any, received notification of residents' rights specified in s. 51.61, Stats., and ch. HSS 94, as required under s. HSS 82.10(5).

(2) INFORMATION REQUESTS. The sponsor shall comply with all department and certifying agency requests for information about the residents, services or operation of the adult family home.

HSS 82.10 RESIDENT RIGHTS. (1) No sponsor or any other household member may subject a resident to mental, physical or sexual abuse or to neglect or otherwise mistreat a resident. Mental abuse includes but is not limited to persistent or excessive negative comments, deliberate inducement of anxiety, singling out one resident for inappropriate criticism or

encouraging the resident's peers to do the same and similar acts when the resident has requested that these acts cease.

(2) No resident may be placed in isolation or physical restraints by a sponsor except in emergency situations when there is physical danger to another person or the resident. The sponsor shall immediately notify the service coordinator, the resident's guardian, if any, the resident's physician and the crisis intervention program designated by the certifying agency if isolation or physical restraint is needed or used. Use of isolation or physical restraint shall be governed in accordance with s. 51.61(1)(i), Stats., and ch. HSS 94.10.

(3) Residents shall be permitted to send and receive mail without any restrictions except as provided in s. 51.61(1)(c), Stats. The sponsor shall give mail to residents on the day it is received or, if a resident is absent from the home, shall keep the resident's mail in a safe, private location. The sponsor may not open or read any mail without the permission of the resident or the resident's guardian, if any.

(4) A resident may receive a reasonable number of visitors at reasonable times. The sponsor may deny access to the home to particular persons whom the sponsor finds undesirable, and may restrict the number of visitors allowed at one time, the number of visits permitted per day or week and the times or days of the week visits are permitted, but the sponsor may not restrict visits of the resident's guardian, if any. The sponsor shall notify the resident of all restrictions on visits.

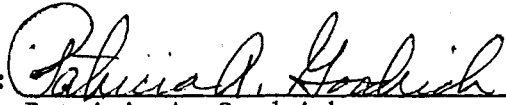
(5) Residents of adult family homes shall have the rights set forth in s. 51.61, Stats., and ch. HSS 94. The sponsor shall be familiar with these rights and, as a condition of certification, shall comply with the provisions of s. 51.61, Stats., and ch. HSS 94 that apply to adult family homes. The sponsor shall also ensure that each resident and the resident's guardian, if any, are notified in writing of the resident rights under s. 51.61, Stats., and ch. HSS 94 that apply to adult family homes immediately after the placement is made. Notification may be done by the sponsor, the resident's service coordinator or the referring agency.

(6) A resident may file a grievance if he or she or the resident's guardian, if any, believes that a right recognized or established under this section has been violated. The sponsor shall ensure that residents have access to a grievance procedure established in accordance with s. HSS 94.27. The grievance procedure may be established by the certifying agency or by the agency that employs the service coordinator when either agency agrees to perform this function.

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

Wisconsin Department of Health and Social Services

Dated: October 31, 1989 By:


Patricia A. Goodrich
Secretary

Seal: