

CR 93-112

CERTIFICATE

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

I, Gerald Whitburn, 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 criteria for prior review of proposals to convert a facility for the developmentally disabled into a nursing home were duly approved and adopted by this Department on December 7, 1993.

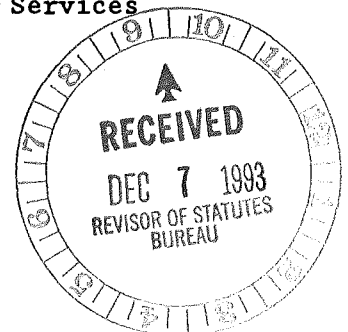
I further certify that this copy has been compared by me with the original on file in the Department and that this copy is a true copy of the original, and of the whole of the original.

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 7th day of December, 1993.



SEAL:

Gerald Whitburn, Secretary  
Department of Health and Social Services



2-1-94

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

To repeal and recreate HSS 122.06(1)(c)(title) and to create HSS 122.06(1)(d) and 122.07(1r), relating to projects for converting a facility for the developmentally disabled (FDD) into a nursing home.

Analysis Prepared by the Department of Health and Social Services

Section 150.31, Stats., establishes a statewide bed limit for nursing homes exclusive of facilities for the developmentally disabled (FDDs) and a separate statewide bed limit for facilities for the developmentally disabled. Bed limits serve the purpose, along with other measures, of controlling nursing home costs and Medical Assistance program expenditures.

The Department is permitted by s. 150.31, Stats., to make adjustments to the bed limits for reasons specified in the statute. This includes adjustments under s. 150.31(6), Stats., to account for conversion of nursing homes to FDDs or of FDDs to nursing homes. Adjustments are made following review and approval of projects under the authority of s. 150.29, Stats., with criteria and procedures for project review set out in rules.

This order creates rules for review of proposals to convert an entire FDD into a nursing home. There are already rules in ch. HSS 122 for reviewing proposals to convert all or part of a nursing home to an FDD.

The occasion for rulemaking is that the Department recently was asked to accept for review an application to convert an FDD to a nursing home but did not have special review criteria to ensure that residents of the FDD are protected during relocation. These rules include those protections and in addition provide that the new nursing home or newly expanded nursing home may be located only in a county with a need for more nursing home beds in the same health planning area.

The Department's authority to repeal and recreate and create these rules is found in ss. 150.03 and 227.11(2), Stats. The rules interpret ss. 50.03(14) and 150.21 to 150.45, Stats.

SECTION 1. HSS 122.06(1)(c)(title) is repealed and recreated to read:

HSS 122.06(1)(c)(title) Nursing home beds converted to FDD beds.

SECTION 2. HSS 122.06(1)(d) is created to read:

HSS 122.06(1)(d) FDD converted to a nursing home. The following provisions apply to applications under s. HSS 122.02(2)(b) and s. 150.21(5), Stats., for the total conversion of an FDD under ch. HSS 134 to be a nursing home under ch. HSS 132:

1. An application may be submitted only in response to a request by the department for applications.

2. The department may accept an application only if the proposed converted facility is presently located or will be located in a county designated in accordance with s. HSS 122.05(1)(b)2 or s. 150.40, Stats., and that county is located within the same health planning area in which the facility is presently located.

SECTION 3. HSS 122.07(1r) is created to read:

HSS 122.07(1r) ADDITIONAL REVIEW CRITERIA FOR CONVERSION OF AN FDD TO A NURSING HOME. The department shall use the applicable criteria in sub. (1) and the additional criteria in this subsection in its review of an application under s. HSS 122.02(2)(b) and s. 150.21(5), Stats., for the total conversion of an FDD under ch. HSS 134 to be a nursing home under ch. HSS 132. The department shall not approve an application subject to this subsection unless the applicant demonstrates that:

(a) The proposed per diem rates for the nursing home are consistent with those of similar facilities;

(b) There will remain in the health planning area in which the applicant FDD is located sufficient FDD beds to serve the population of persons with developmental disabilities, including any residents of the converting facility who need to remain in an FDD;


(c) There are other adequate and appropriate resources available in the county or counties served by the facility being converted for relocating its residents as determined by the applicable county department or departments organized under s. 46.23, 51.42 or 51.437, Stats.; and

(d) The facility, in conjunction with the applicable county department or departments organized under s. 46.23, 51.42, or 51.437, Stats., has developed a preliminary relocation plan under s. 50.03(14)(c) 8, Stats., for each resident which is acceptable to the county department or departments and addresses the needs and concerns of the resident or the resident's guardian.

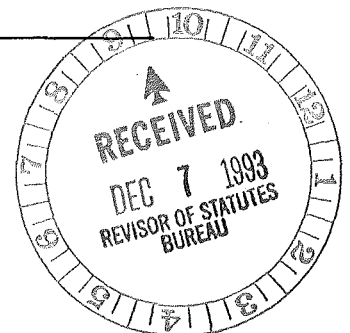
The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, as provided in s. 227.22(2), Stats.

Wisconsin Department of Health and  
Social Services

Dated: December 7, 1993

By:   
Gerald Whitburn  
Secretary

SEAL:



Tommy G. Thompson  
Governor  
Gerald Whitburn  
Secretary



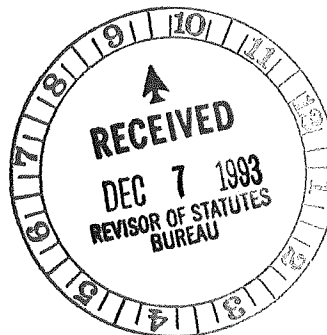
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Madison, WI 53707-7850  
Telephone (608) 266-9622

## State of Wisconsin Department of Health and Social Services

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December 7, 1993

Mr. Bruce E. Munson  
Revisor of Statutes  
131 W. Wilson St., Suite 800  
Madison, WI 53703



Dear Mr. Munson:

As provided in s. 227.20, Stats., there is hereby submitted a certified copy of ss. HSS 122.06 and 122.07, administrative rules relating to criteria for prior review of proposals to convert a facility for the developmentally disabled into a nursing home.

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

Sincerely,

A handwritten signature in cursive script, appearing to read "Gerald Whitburn".

Gerald Whitburn  
Secretary

Enclosure