

## Chapter HFS 59

### SHELTER CARE FACILITIES

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**Note:** Chapter HSS 59 was renumbered ch. HFS 59 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, December, 1999, No. 528.

**HFS 59.01 Introduction.** (1) **PURPOSE.** The purpose of this chapter is to protect and promote the health, safety and welfare of children in shelter care facilities.

(2) **TO WHOM THE RULES APPLY.** This chapter applies to all persons making application to the department for a license to provide shelter care.

(3) **RESPONSIBILITY OF THE DEPARTMENT.** The department shall evaluate the applicant, issue a license if the applicant is qualified, and supervise the licensee to ensure continued compliance with this chapter.

(4) **EXCEPTION TO RULES.** The department may make exceptions to any of the rules for licensing shelter care facilities when the department is assured that granting such exceptions is not detrimental to the health, safety and welfare of children in shelter care, except that exceptions may not be made to s. HFS 59.03 (2) (b) or to s. HFS 59.05 (2) or (3).

(5) (a) **COMPLIANCE WITH ADMINISTRATIVE RULES AND LAWS.** A person who is licensed under this chapter shall operate the shelter care facility in compliance with this chapter, the provisions of the license, and applicable state, federal, and local law.

(b) A shelter care facility for more than 8 children shall comply with the Wisconsin Commercial Building Code and applicable local ordinances.

(6) **TYPES OF FACILITIES.** (a) There shall be 4 types of shelter care facilities:

1. Hold-over rooms for one or 2 children;
2. Family shelter care facilities that house from one to 4 children;
3. Small group shelter care facilities that house 5 to 8 children; and
4. Large group shelter care facilities that house 9 to 20 children.

(b) Any shelter care facility licensed or approved by the department under rules for licensing child welfare institutions to house more than 20 children at the time this chapter goes into effect may continue to house the number of children for which it has been approved.

(7) **INDIVIDUALLY LICENSED.** All shelter care facilities shall be individually licensed, even though more than one may be owned or operated by the same person.

(8) **MULTIPLE LICENSING.** A facility licensed under s. 48.62 or 48.625, Stats., as a family foster home or group home by a county department of social services or the department may be licensed to concurrently provide shelter care as long as the applicant can show to the satisfaction of the department that the facility is capable of providing both types of care without lowering the level or services for any resident of the facility. Persons operating a facility with multiple licenses shall designate particular beds within the living unit for each type of service provided.

**History:** Cr. Register, December, 1982, No. 324, eff. 1-1-83; emerg. r. and recr. (6) (a), eff. 12-1-93, r. and recr. (6) (a), Register, September, 1994, No. 465, eff. 10-1-94; correction in (5) made under s. 13.93 (2m) (b) 7., Stats., Register, December, 1999, No. 528; correction in (5) made under s. 13.93 (2m) (b) 7., Stats.; **CR 04-040: r. and recr. (5) Register December 2004 No. 588, eff. 1-1-05.**

**HFS 59.02 Definitions.** In this chapter:

(1) "Child" means an individual under 18 years of age, and refers both to a child placed for shelter care and to any other individual under 18 years of age living in the shelter care facility.

(2) "Department" means the Wisconsin department of health and family services.

(3) "Executive" means the individual designated by the board of a corporation to be primarily responsible for the administration of all shelter care facilities operated by the corporation.

(4) "Family care staffing" means that at least one shelter care worker, whether an independent operator or an employee of a licensee, has the facility as a primary domicile.

(4g) "Hold-over room" means a nonsecure room in a county government facility, the purpose of which is to provide a safe environment for holding a child to facilitate the child's appearance at a court hearing within 24 hours or over the weekend if the child is placed in the hold-over room on a Friday or on the weekend, or to transport the child to another facility within 24 hours.

(4m) "Hold-over room attendant" means a staff person or volunteer who provides care and supervision of the occupant or occupants of a hold-over room.

(5) "Licensee" means the person who is primarily responsible for the operation of a facility and who is licensed by the department to operate the facility.

(6) "Licensing agency" means the department.

(6g) "Nonsecure" means a child is not held or prevented from leaving against his or her will.

(7) "Person" means any individual, partnership, association, corporation or public agency other than the department.

(8) "Privately-operated shelter care facility" means a facility operated by persons who are not county employees and from whom a county board of supervisors purchases services pursuant to s. 938.22 (5), Stats.

(9) "Publicly-operated shelter facility" means a facility operated by a county board of supervisors pursuant to s. 938.22 (1), Stats.

(10) "Relief help" means an individual who is used to replace shelter care workers on an unscheduled basis and for a few hours or few days at a time. An individual regularly scheduled to replace shelter care workers on days off or for vacations and other prolonged periods is not relief help but an additional shelter care worker.

(11) "Shelter care" means short-term, nonsecure residential care and physical custody of children pending court action. "Short-term" means a maximum of 30 days for each episode, with extension for up to another 30 days as provided in s. HFS 59.05 (3) (b), except that for a hold-over room "short-term" means not longer than 24 hours or, if the placement is made on a Friday or on the weekend, not longer than over the weekend until the following Monday.

(12) "Shelter care worker" means an individual who provides primary care and supervision of children in a shelter care facility on a regular schedule, either on a full-time or part-time basis, but not a hold-over room attendant.

(13) "Shift staffing" means that all shelter care workers employed by the licensee provide care on a rotating or shift basis in the shelter care facility.

(14) "Superintendent" means an individual designated pursuant to s. 938.22 (3), Stats., by the juvenile court judge or, when 2 or more counties cooperate to provide shelter care, by a committee of juvenile court judges, to supervise the provision of shelter care within a county.

(15) "Unit supervisor" means the individual in a shelter care facility who is primarily responsible for supervising the day-to-day activities of that facility.

(16) "Volunteer" means any individual providing services to the shelter care facility who receives no monetary reimbursement for services. Payment for out-of-pocket expenses is not considered reimbursement for services.

**History:** Cr. Register, December, 1982, No. 324, eff. 1-1-83; emerg. cr. (4g), (4m), (6g), emerg. am. (11), (12), eff. 12-1-93, cr. (4g), (4m), (6g), am. (11), (12), Register, September, 1994, No. 465, eff. 10-1-94; correction in (11) made under s. 13.93 (2m) (b) 7., Stats., Register, September, 1994, No. 465; corrections in (8), (9) and (14) made under s. 13.93 (2m) (b) 7., Stats., Register, December, 1999, No. 528; **correction in (8) made under s. 13.93 (2m) (b) 7., Stats., Register December 2004 No. 588.**

**HFS 59.03 Administration and management.**

(1) PUBLICLY OPERATED FACILITIES. (a) *Application.* 1. a. A county wanting to operate a public shelter care facility, including a hold-over room, shall apply to the department for a license on forms provided by the department. The application shall be signed by the chairperson of the county board of supervisors and the presiding juvenile court judge. A hold-over room license applicant shall be a county department under s. 46.15, 46.22 or 46.23, Stats., or a county sheriff's department, as designated by the chairperson of the county board and the judge of the juvenile court.

**Note:** An application for a license may be obtained from the department's website at <http://www.dhfs.wisconsin.gov> or by writing or telephoning any field office listed in Appendix A.

b. Except in the case of a hold-over room, 2 or more counties may cooperate to provide shelter care. A joint application shall be signed by the chairperson of the county boards of supervisors and the presiding juvenile court judges for all of the cooperating counties.

2. a. A county may apply to operate more than one family, small group or large group shelter care facility, but a separate application shall be submitted for each facility and each facility shall be licensed separately.

b. A county may apply to operate one or more hold-over rooms in the county under one license.

3. If the applicant meets the requirements contained in these rules, a license shall be issued which specifies the location of the shelter care facility, the sex, age and number of children it may receive, and the expiration date and any other conditions placed on the facility.

4. Application for license renewal shall be submitted by the licensee at least 60 days prior to the expiration of the current license and 30 days prior to any change in the location of the facility.

5. A licensee shall provide with the first application and renewal any information specified by the department to demonstrate that the facility meets the requirements of these rules.

6. The application should also include the name and address of the superintendent of the shelter care for the county(s) served, and the name and address of the unit supervisor of the facility.

(b) *Insurance.* 1. Persons making application for a license to operate a public shelter care facility shall provide the department with information indicating the manner in which the facility will insure its liability risks and protect its assets.

2. The licensee will be responsible for obtaining protection for any liability which may result when children are being transported by the licensee or its agents.

(c) *Financial records.* The publicly operated shelter care facility shall upon request provide the department with financial records or statements relating to the financial operation of the facility.

(2) PRIVATELY OPERATED SHELTER CARE FACILITIES. (a) *Application.* 1. Persons applying for a license to operate a private shelter care facility shall do so on forms provided by the department. The application shall be signed by the individual or authorized representative of the corporation making application and countersigned by the juvenile court judges of the county(s) in which the person intends to operate the facility.

**Note:** An application for a license may be obtained from the department's website at <http://www.dhfs.wisconsin.gov> or by writing or telephoning any field office listed in Appendix A.

2. Corporations may apply to operate one or more family, small group or large group shelter care facilities, but each facility shall be licensed separately.

3. Individuals may apply to operate only one family or small group shelter care facility.

4. If the applicant meets the requirements contained in the rules, a license shall be issued which specifies the location of the shelter care facility, the sex, age and number of children it may receive, the expiration date and any other conditions placed on the facility.

5. A new application for license renewal shall be submitted by the licensee at least 60 days prior to expiration of the current license or 30 days prior to any change in the name of the licensee or location of the facility.

6. The following materials shall accompany the first application for a license.

a. Copies of the articles of incorporation, constitution and by-laws of a corporation applying for licensure.

b. Information as specified by the department to demonstrate that the facility meets the requirements of these rules.

c. The applicant shall provide evidence of the availability of funds to carry the shelter care facility through the first 6 months of operation. Such evidence is not limited to actual cash or credit but may be evidence of the intent of the juvenile court to use the shelter care facility to the extent that a minimum necessary population will be maintained.

7. The name, addresses and titles of the board members and the name of the executive of a corporation applying for a license, and the name and address of the superintendent(s) of shelter care for the county(s) served, and of the unit supervisor for the facility.

(b) *Written agreement.* Any person applying for a license to operate a private shelter care facility shall present with the application a written agreement between the person making application and the chairperson(s) of the county board(s) and the judge(s) of the juvenile court(s) of the county(s) in which service will be provided. The agreement must provide, in addition to any other condition established by the parties that:

1. The person operating the facility(s) will only accept into care those children referred by the juvenile court(s) of the county(s) served, or whose placement is approved by the court(s).

2. The person operating the facility(s) will act under the jurisdiction and supervision of the juvenile court(s) of the county(s) served, and will abide by any policies established by the court(s) which are not in conflict with these rules.

3. In addition, the agreement shall specify the financial and other responsibilities of each party.

(c) *Insurance.* 1. All licensees shall carry sufficient forms and amounts of available insurance to insure the liability risks of the facility in the provision of services and to give reasonable protection to its assets.

2. All licensees shall be responsible for providing liability insurance for all situations in which children are transported by the licensee or its agents.

(d) *Corporation operated shelter facilities.* 1. Incorporation. a. Any body of persons wishing to operate a corporation operated shelter care facility or series of shelter care facilities shall be incorporated in accordance with the laws of the state of Wisconsin.

b. Any corporation which is incorporated outside of Wisconsin shall secure authorization from the secretary of state to do business in Wisconsin.

2. Board of directors. a. Each corporation shall be governed by a board of directors which is responsible for the operation of the corporation according to its defined purpose.

b. No member of this board shall be an employee of the corporation or the spouse of an employee, unless the corporation is a non-profit, non-stock corporation incorporated in Wisconsin for the sole purpose of operating one shelter care facility.

3. The board shall:

a. Establish written procedures for operation of the facility under the direction of the juvenile court judge and the superintendent of shelter care of the county in which the facility is located, or the committee of judges when 2 or more counties cooperated to provide shelter care.

b. Exercise trusteeship for property, investments, and protection from liability.

c. Approve the budget and be responsible for obtaining and disbursing funds.

d. Designate an executive and delegate to the executive responsibility for the administration of all shelter care facilities operated by the corporation.

e. Establish a plan for maintaining a continuing relationship with the community in which the facility is located for the purpose of promoting a better understanding and acceptance of the shelter care facility.

f. The board shall contain 2 seats for persons 17 years of age or younger who may vote on all issues relating to the care of children in shelter care.

4. Financial arrangements. a. The board with the executive shall be responsible for the secure and judicious use of funds for shelter care. Policies and practices shall be in accord with sound budgeting, disbursement and audit control procedures.

b. Each corporation shall have a sound written plan of financing to assure sufficient funds to enable it to carry out its defined purposes and to provide proper care.

c. The corporation shall maintain a system of business management and staffing to assure maintenance of complete and accurate accounts, books and records.

d. Upon request, the corporation shall provide the department with a confidential balance sheet and financial records or financial statements.

5. Operation of multiple facilities. a. Corporations which apply for licenses to operate more than one facility shall provide in addition to the information required for licensing individual facilities, any information specified by the department which demonstrates the ability of the corporation to operate multiple facilities.

b. The department may deny licensure for one or more facilities operated by a corporation or may sanction any one or more facilities, or, for cause, may sanction or deny licensure to the corporation as a whole.

(e) *Individually operated facilities.* An individual or individuals applying for a license to operate a private shelter care facility shall include with their application a proposed budget for the facility, indicating expected sources of income and projects costs.

(3) **RESPONSIBILITY TO SUPERINTENDENT OF SHELTER CARE.** (a) Each county operating a hold-over room or other shelter care facility shall appoint a superintendent of shelter care. The superintendent of shelter care may be at the same time the unit supervisor of a hold-over room or other public shelter care facility.

(b) The unit supervisor of any private or public shelter care facility and the executive of any corporation operated shelter care facility shall be responsible to the superintendent of shelter care for implementing the policies established by the juvenile court judge pursuant to s. 938.22 (1) (b) and (3) (a), Stats.

**Note:** For copies of any forms required under this chapter, including license application forms, HFS-64, CFS-384 and JI-03, contact a regional licensing representative of the Department's Division of Children and Family Services, or write Bureau of Regulation and Licensing, P.O. Box 8916, Madison, WI 53708-8916.

**History:** Cr. Register, June, 1978, No. 270, eff. 7-1-78; renum. from PW-CY 45.02 and am. (3) (b), Register, December, 1982, No. 324, eff. 1-1-83; emerg. r. and recr. (1) (a) 1., 2., (3) (a), eff. 12-1-93, r. and recr. (1) (a) 1., 2., (3) (a), Register, September, 1994, No. 465, eff. 10-1-94; correction in (3) (b) made under s. 13.93 (2m) (b) 7., Stats., Register, December, 1999, No. 528.

**HFS 59.04 Personnel. (1) QUALIFICATIONS OF SHELTER CARE WORKERS, HOLD-OVER ROOM ATTENDANTS AND RELIEF HELP.** (a) *Personal qualifications.* Shelter care workers, relief help, volunteers and hold-over room attendants shall be responsible, mature individuals of reputable character who exercise sound judgment and display the capacity to provide good care for children.

(b) *Health.* 1. Every shelter care worker, relief help, volunteer and hold-over room attendant and any person who may be residing in a shelter care facility shall be in good physical and mental health so that the health of the children or the quality and manner of their care will not be adversely affected.

2. If there is reason to believe that the physical or mental health of any shelter care worker, relief help, volunteer or hold-over room attendant or any person who may be residing in a shelter care facility might endanger children in care, the department may require an alcohol and other drug abuse assessment or a physical health or mental health evaluation of the person by a physician or other health care professional as a condition for continued employment or service or residence in the facility. The physician or other health care professional who performs the assessment or evaluation shall submit a written statement to the department that describes the condition of the person and possible effects of that condition on children in care.

3. Before beginning employment or service in a shelter care facility, a person shall receive a health examination covering the areas included in department form CFS 384. This requirement does not apply to a person who will work as a volunteer in contact with children for not more than 10 hours a week or as a hold-over room attendant. A person who will work as a volunteer in contact with children for not more than 10 hours a week or as a hold-over room attendant shall have received a tuberculin skin test without positive findings within 90 days before beginning employment or service.

(c) *Education and training.* 1. Shelter care workers shall either:

a. Have had one or more years of experience as foster parents, institutional houseparents, or other relevant child care experience, or

b. Have successfully completed not less than 24 hours of relevant training in accordance with plan formulated by the applicant or licensee and approved by the department, or

c. Agree to complete such training as specified in preceding subd. 1. b. within a period not to exceed one year from the time of initial licensure or employment.

2. Shelter care workers shall participate in ongoing in-service training of at least 15 hours a year in accordance with a plan formulated by the licensee and approved by the department.

3. Before a hold-over room attendant may provide care for a resident, the attendant shall complete at least 12 hours of training approved by the department on managing a hold-over room and providing care for residents, to include at least the following:

a. Suicide prevention.

b. Adolescent development.

c. Adolescent behavior.

d. Child abuse and neglect reporting laws.

e. Effects of alcohol and drug abuse.

f. Policies and procedures for operating the hold-over room.

g. Crisis intervention techniques.

(d) *First aid training.* 1. Each shelter care worker and hold-over room attendant shall have successfully completed a course in first aid, including cardiopulmonary resuscitation (CPR), acceptable to the department, unless the shelter care worker or hold-over room attendant has access to a person on the premises who is readily available and has completed a course in first aid, including cardiopulmonary resuscitation (CPR).

2. Each shelter care worker, hold-over room attendant or trained person on the premises under subd. 1. shall update his or her knowledge about first aid by successfully completing a first aid course acceptable to the department at least once in each consecutive 3 year period.

**(2) VOLUNTEERS.** (a) If volunteers are used, the licensee shall assign an appropriate staff member to:

1. Develop a plan for screening and orientation and use of volunteers and
2. Supervise and evaluate volunteers.

(b) Volunteers, except those working as hold-over room attendants, who are in regular contact with children in shelter care more than 10 hours per week shall meet all health requirements for shelter care workers.

**(3) UNIT SUPERVISORS.** (a) In family and small group shelter care facilities the unit supervisor shall meet the requirements for shelter care workers under sub. (1). For hold-over rooms, the unit supervisor shall meet the requirements for hold-over room attendants under sub. (1).

(b) In large group shelter care facilities, the unit supervisor shall meet the requirements for shelter care workers, and in addition shall:

1. Have at least 3 years experience as a foster parent, institutional houseparent, or other relevant child care experience.
2. Have at least 2 years experience in an administrative or supervisory capacity.
3. During the first year as unit supervisor demonstrate the ability to satisfactorily manage the facility.

**(4) OTHER PERSONNEL.** In addition to shelter care workers, relief help, and volunteers, unit supervisors may employ other staff such as cooks, janitors, launderers, housekeepers, etc. as needed, to carry out daily housekeeping functions.

**(5) STAFFING PATTERNS.** (a) *Family care staffing and shift staffing.* 1. The licensee shall not schedule relief help or volunteers to serve the purpose of replacing shelter care workers as the usual and primary providers of care and supervision of the children in the shelter care facility. In small and large group shelter care facilities, at the request of the department, the licensees shall make available scheduling and time records of all shelter care workers, relief help and volunteers.

2. There shall be at least 2 shelter care workers for each shelter care facility and one hold-over room attendant for each hold-over room in use. The hold-over room attendant shall be of the same sex as the occupant of the hold-over room.

3. There shall be a written and workable plan for contacting another shelter care worker, relief help individual, hold-over room attendant or other responsible adult when an emergency occurs at a time when only one shelter care worker, relief help individual or hold-over room attendant is in the facility.

(b) *Family care staffing only.* 1. One of the shelter care workers shall not have responsibilities unrelated to the shelter care facility program in excess of 10 hours per week. The second shelter care worker may have responsibilities away from the shelter care facility for more than 10 hours per week, but shall be otherwise available and make constructive contributions to the facility program.

2. The number of children shelter care workers may receive for care plus the number of shelter care workers' own children who live in the household shall not exceed a combined total of 10.

**(5m) PERSONNEL POLICIES.** The licensee shall provide written personnel policies and procedures and any updates to them to persons employed as shelter care workers who work more than 10 hours per week. The personnel policies and procedures shall cover salary provisions, fringe benefits such as vacation time, sick leave, overtime, leaves of absence, retirement plan, if any, and insurance coverage, probationary period, if any, staffing schedule, job description defining specific duties, evaluation standards, chain of command, grievance procedures and termination procedures.

**(6) PERSONNEL FILES.** (a) *Shelter care workers.* A licensee shall maintain a personnel file on each shelter care worker, except relief help employed 10 or less hours per week, that includes the following:

1. Name and address.
2. Date of birth.
3. A statement of the employee's qualifications, including education, training and experience.
4. A report on references, a signed background verification form and criminal records check report from the crime information bureau that meet the requirements of par. (c).
5. Job description.
6. Duties, terms of employment and immediate supervisor.
7. Health record.
8. Training records.
9. Annual and termination evaluations.

(b) *Relief help, volunteers and hold-over room attendants.* A licensee shall maintain a record on each relief help employed 10 or less hours a week, each volunteer and each hold-over room attendant. The record shall be made available to the department upon request. The record shall include for each relief help, volunteer and hold-over room attendant:

1. Name and address.
2. Date of birth.
3. Health record, if required under sub. (1) (b) 2.
4. Dates and hours employed or volunteered.
5. Job description
6. Training records.
7. A report on references, signed background verification form and criminal records check report from the crime information bureau that meet the requirements of par. (c).

(c) *References and background checks.* 1. The report on references under pars. (a) 4. and (b) 7. shall include:

- a. Character references from at least 2 persons and references from previous employers.
- b. Documentation of references either by letter or verification in the record of verbal contact, giving dates, individual making contact, individuals contacted and the content.

2. The background verification form under pars. (a) 4. and (b) 7. shall be a notarized department background verification form, HFS-64, signed by the shelter care employee, hold-over room attendant or volunteer, stating that the shelter care worker, hold-over room attendant or volunteer does not have a pending criminal charge or conviction relating to the care of children.

3. A state criminal records check on each applicant before allowing that person to work at the shelter care facility. If the person lived in another state, a criminal records check shall be requested from that state.

**Note:** For a state of Wisconsin criminal records check, obtain the name, sex, race and date of birth of the person about whom you are requesting the check. Send this information in a stamped self-addressed envelope to the Crime Information Bureau, Wisconsin Department of Justice, P.O. Box 2688, Madison, WI 53701-2688. There is a \$2 fee per check for nonprofit and a \$5 fee per check for a government agency. A non-profit or government agency must specify its tax exempt number. For all other agencies there is a \$13 fee per check.

**Note:** Shelter care facilities must also comply with ch. HFS 12, relating to uniform background checks on applicants for employment and, periodically, on existing

employees, and not hire or retain persons who because of specified past actions are prohibited from working with the children.

(d) *Availability of file.* Any personnel file shall be made available upon request to the department and the employee or volunteer on whom the file is maintained.

**(7) DISCRIMINATION.** The shelter care facility shall be in compliance with ss. 111.31 through 111.37, Stats., Title VI of the Civil Rights Act of 1964 as amended by the Equal Employment Opportunity Act of 1972.

**History:** Cr. Register, June, 1978, No. 270, eff. 7-1-78; renun. from PW-CY 45.03, Register, December, 1982, No. 324, eff. 1-1-83.; am. (1)(b) 3., Register, June, 1983, No. 330, eff. 7-1-83; emerg. r. and recr. (1) (a), (b), (d) 1., (6), emerg. cr. (1) (c) 3., emerg. am. (1) (d) 2., (2) (b), (3) (a), (5) (a) 2., 3., eff. 12-1-93, r. and recr. (1) (a), (b), (d) 1., (6), cr. (1) (c) 3., (5m), am. (1) (d) 2., (2) (b), (3) (a), (5) (a) 2., 3., Register, September, 1994, No. 465, eff. 10-1-94.

**HFS 59.05 Child care. (1) APPLICABILITY.** This section applies to all shelter care facilities except that only the provisions of subs. (1m), (3) (a), (4) (a) to (d), (5), (6), (9), (10) (a) and (11) to (14) apply to hold-over rooms.

**(1m) ADMISSION TO SHELTER CARE.** A child may not be received into shelter care, including into a hold-over room, unless the child has been found eligible for placement by the juvenile court judge or a court intake worker designated by the judge.

**(2) AGE OF CHILDREN IN SHELTER CARE.** No child under 10 may be kept in a shelter care facility unless written approval is given by the department within 48 hours after admission excluding weekends and holidays. Children under age 10 shall not be kept in shelter care for more than 7 days per episode.

**(3) TIME LIMITS.** (a) A hold-over room may not hold a child for more than 24 hours, except that a hold-over room may hold a child placed in the hold-over room on a Friday afternoon or evening or over the weekend until the court hearing the following Monday provided that the hold-over room immediately notifies the appropriate division of community services licensing office by telephone or fax of the placement and supplies the following information related to the placement:

1. Date and time of child's admission to the hold-over room and date and time of next scheduled court hearing.
2. Name and age of child and reason why the child was taken into custody.
3. Explanation of why a weekend stay in the hold-over room is necessary which may be because of the unavailability of a shelter care facility in a bordering county or inability to return the child to the parental home or other reason.
4. Names of staff and their work schedules covering the weekend along with indoor and outdoor activities planned for the child during his or her weekend stay.

(b) A shelter care facility may not keep a child in residence for more than 30 days per episode except:

1. An extension for an additional 15 days may be made upon written approval of the superintendent of shelter care for the county in which the facility is located; and
2. A second extension of 15 more days may be made upon written approval from the department.
3. The request for each extension must be made prior to the expiration of the prior approved time, and should include an explanation for the need of extended care.

**(4) SUPERVISION OF CHILDREN IN SHELTER CARE.** (a) This subsection applies to all shelter care facilities except that only pars. (b), (c) and (d) apply to hold-over rooms.

(b) The unit supervisor of each facility shall prepare a written plan for staff care coverage, taking into account the needs of the children to be admitted into shelter care, and demonstrating the methods by which adequate supervision will be insured.

(c) Children in shelter care shall not be left without supervision by a shelter care worker or by relief help.

(d) The care of children in shelter care shall not be combined with any other service or business conducted in the facility without the written approval of the department.

(e) When no children are in residence for shelter care, a shelter care worker must be on call and available to come immediately to the facility when a child is admitted into care. A facility shall be able to receive children into care 24 hours a day, 7 days a week.

(f) The ratio of child care staff to children in care shall be dependent on number and the needs of the children, but there shall be at least 2 child care staff members or persons properly substituting for them on duty in the facility at any time when there are 9 or more children present during waking hours, and 3 staff members present when 17 or more children are present during waking hours.

(g) During sleeping hours there shall always be one staff person within hearing or call of all children in care. When 9 or more children in care are present, 2 staff members must be on duty and make hourly observations of the areas in which children are sleeping.

(h) When children of both sexes are present in large group shelter care facilities, there shall be both male and female staff members on duty in the facility.

**(5) DISCIPLINE.** (a) Discipline shall be for the purpose of helping the child and shall be handled with kindness and understanding.

(b) No child in care shall be subjected to corporal, unusual, or severe punishment, or to punishment by deprivation of meals.

(c) Discipline shall be fair, reasonable, consistent and related to the behavior causing the discipline.

(d) Written facility rules shall be approved by the superintendent of shelter care. These shall be explained to children when they are admitted to the facility, and available to them during their stay.

(e) Physical holding shall be used only to protect the child from injury to self or others. Mechanical restraints shall not be used.

(f) Punishment shall be related to the child's misconduct. The other children in shelter care shall not be punished for the misconduct of an individual child.

(g) No child shall be locked within the facility as a whole or any part of it.

(h) Medicine shall not be used as a means of maintaining discipline.

**(6) CLOTHING.** Each facility shall ensure that children in care are adequately clothed during their stay. Children in shelter care may retain their own clothes.

**(7) EDUCATION.** The licensee shall make every reasonable effort to ensure that children in care regularly attend a school program unless otherwise excused by school officials.

**(8) WORK PERFORMED BY CHILDREN.** (a) Children in care shall have opportunities to assume responsibility for household duties or chores appropriate to their age, health and ability.

(b) No licensee shall use the labor of children in care as a substitute to the employment of a sufficient number of competent employees to operate and maintain the shelter facility.

(c) Household duties of children in care shall not interfere with their school, sleep or study.

**(9) RELIGION.** Shelter care workers and hold-over room attendants shall make every reasonable effort to make opportunities available to each child in shelter care who wishes it for attendance at religious services compatible with the child's religious heritage or preference.

**(10) NUTRITION.** (a) Food shall be provided to children in sufficient quantities and varieties, and shall provide for essential nutritional and dietary needs.

(b) In planning menus, consideration shall be given, whenever possible, to the religious practices and the cultural patterns of the children in shelter care.

(c) In small and large group shelter care facilities, daily menus shall be kept on file and available to the department for at least 30 days thereafter.

(d) Supplementary food or modified diets as ordered by a physician shall be provided for those children who have special needs.

**(11) RECREATION AND LEISURE TIME ACTIVITIES.** The licensee shall provide recreational opportunities based on the age, abilities and interests of the children.

**(12) VISITING.** Shelter care workers and hold-over room attendants shall encourage the maintenance of a relationship between children and their parents or relatives or other significant persons. For a shelter care facility except a hold-over room this shall be in accordance with a plan established by the unit supervisor and the child's legal custodian. Visitation with parents shall not be restricted as a form of discipline.

**(13) MEDICAL CARE.** (a) Each shelter care facility shall establish written procedures to be used to provide regular and emergency medical care to children in residence, including the name of a physician who is available to treat the children and the names and locations of nearby emergency medical services.

(b) Upon admitting a child into shelter care, the staff shall obtain from the child, law enforcement personnel, and if possible, the child's parents, information regarding the child's medical needs, including any chronic ailments, allergies or the need for a special diet.

(c) The licensee shall be responsible for providing or securing necessary medical treatment and dental care while the child is in care in the shelter care facility.

**(14) TRANSPORTATION.** The licensee shall make every reasonable effort to provide safe transportation of children in shelter care.

**(15) RESIDENT RIGHTS.** The licensee shall be knowledgeable of and ensure that staff members and volunteers observe the patient rights and grievance resolution procedures in s. 51.61, Stats., and ch. HFS 94, for each resident that receives services for treatment of mental illness, a developmental disability, alcoholism or drug dependency. Residents that are not specifically identified as coming under s. 51.61, Stats., and ch. HFS 94 shall have rights and access to grievance resolution procedures that are comparable to those found in s. 51.61, Stats., and ch. HFS 94.

**History:** Cr. Register, June, 1978, No. 270, eff. 7-1-78; renum. from PW-CY 45.04, Register, December, 1982, No. 324, eff. 1-1-83; emerg. renum. (1), (3) and (4) (a) to (g) to be (1m), (3) (b) and (4) (b) to (h) and am. (3) (b) (intro.), emerg. cr. (1), (3) (a), (4) (a), eff. 12-1-93, renum. (1), (3) and (4) (a) to (g) to be (1m), (3) (b) and (4) (b) to (h) and am. (3) (b) (intro.), cr. (1), (3) (a), (4) (a), am. (9), (12), Register, September, 1994, No. 465, eff. 10-1-94; **CR 04-040: cr. (15) Register December 2004 No. 588, eff. 1-1-05.**

**HFS 59.06 Physical plant and environment.**

**(1) APPLICABILITY.** This section applies to all shelter care facilities except that only subs. (2), (4) (c), (5) (b) to (g), (j) and (k), (7) (c), (8) (d), (10) (g), (13) to (18), (19) (a), (20) and (21) (d) apply to hold-over rooms.

**(2) BUILDING SITE LOCATION.** In the judgment of the department, the location of the facility shall be related to the program offered and age, sex, needs and interest levels of the residents. Factors to be considered in determining the acceptability of the location shall include: access to educational, recreational, religious, shopping, and cultural opportunities; health resources; access to public or private utilities and services such as safe water supply, sewage disposal, fire and police protection.

**(3) GENERAL BUILDING REQUIREMENTS.** The shelter care facility and grounds shall be maintained in a clean, safe and sanitary condition and a good state of repair.

**(4) SPACE REQUIREMENTS.** (a) There shall be at least 200 square feet of living space for each resident of the facility. "Living

space" excludes unfinished basements, attics, garages, or similar areas not usually occupied by residents in daily living.

(b) There shall be at least 55 square feet of floor space in a bedroom designed for only one child, 50 square feet of floor space for each child in a bedroom occupied by 2 children and 45 square feet of floor space for each child in a bedroom occupied by 3 or 4 children.

(c) A hold-over room licensed for the first time on or after January 1, 1994 shall have at least 60 square feet of living space for one occupant and at least 100 square feet of living space for 2 occupants.

**(5) BEDROOMS.** (a) Regular sleeping provisions for children shall not be in any building, apartment, or other structure which is separate from the shelter care facility.

(b) Children shall not be permitted to sleep in an unfinished attic, in an unfinished basement, or in a hall or any other room which is normally used for other than sleeping purposes.

(c) Children with handicaps limiting mobility shall not be permitted to sleep in finished basement rooms or in bedrooms above the second floor.

**Note:** "Handicaps limiting mobility" means any mental, developmental, or physical disability which restricts the child's mobility or ability to function without supervision.

(d) Children shall not be permitted to sleep in finished basement rooms unless provisions have been made for heating, ventilation and humidity control and there are 2 means of exit from the basement, at least one of which will open to the outside.

(e) Children shall not be permitted to sleep in bedrooms above the second floor of a one or 2 family dwelling unless provisions have been made for heating and ventilation and there are at least 2 means of exit to grade level.

(f) No child in shelter care shall be required to sleep in a bed with an adult.

(g) No child in shelter care shall be permitted to share a bedroom with a child of the opposite sex.

(h) No more than 4 children shall occupy any bedroom.

(i) Children of the shelter care workers shall not be displaced and permitted to occupy sleeping quarters not acceptable for shelter care children except as indicated in other sections of these rules.

(j) No child in shelter care shall be required to share a bedroom with a shelter care worker or a hold-over room attendant.

(k) During sleeping hours a shelter care worker or relief help or, for a hold-over room, a hold-over room attendant, shall be within call of the child or children.

**(6) AREAS.** (a) There shall be a quiet area in the home suitable for study, or simply being alone.

(b) Space shall be provided where children may receive and talk with visitors privately.

**(7) DINING AREA.** (a) In family and small group shelter facilities, dining facilities shall be such as to permit all members of the household to sit down to meals together.

(b) In large group shelter facilities dining facilities shall be provided with sufficient space and equipment to serve all the residents.

(c) The unit supervisor of a hold-over room shall arrange for nutritious meals for the occupant or occupants held in a hold-over room over a meal period or when the occupant or occupants have not had the most recent meal, and shall provide the occupant or occupants a snack between lunch and supper and at night before the occupant or occupants go to sleep.

**(8) BATHROOM.** (a) The facility shall contain one complete bathroom including stool, washbowl, and tub or shower, for each 8 individuals residing there.

(b) Bathroom facilities shall be within the facility and within one floor of sleeping room occupied by children.

(c) In large group shelter facilities separate bathroom facilities shall be provided for both sexes if the facility is co-educational.

(d) A hold-over room shall have bathroom facilities available on the premises that are accessible at any time to a child placed in the hold-over room.

**(9) INDOOR RECREATION AREA.** Indoor recreation equipment and space appropriate to the age and interest levels of children shall be provided.

**(10) FURNISHINGS.** (a) The living area shall be adequately furnished and allow for free and informal use by the children.

(b) Each child in shelter care shall be provided with a separate bed except that siblings of the same sex may share a double bed.

(c) Each bed shall be of such size as to ensure comfort of the child, be in good condition, have a clean and comfortable mattress with waterproof covering when necessary, and be provided with a pillow, 2 sheets, bedspread and blankets adequate for the season.

(d) All sheets and pillow cases shall be changed at least once a week, more often if necessary and when the bed is occupied by a new resident.

(e) Triple decker bunks shall not be used.

(f) An adequate supply of clean wash cloths, and bath towels shall be available to each child.

(g) A hold-over room shall have a table. The hold-over room shall also have a chair for each occupant. Where necessary, comfortable sleeping accommodations shall be provided for each occupant.

**(11) KITCHEN.** (a) The kitchen shall be of adequate size and equipped with adequate household appliances and utensils to meet the needs of residents.

(b) Dishes, silverware, utensils and food shall be maintained and stored in clean and sanitary manner.

**(12) LAUNDRY.** (a) Private or public laundry facilities shall be available to meet the needs of all residents.

(b) Any laundry equipment in the facility shall be installed and vented in accordance with the manufacturer's recommendations.

**(13) STORAGE SPACE.** (a) The shelter care facilities shall have sufficient storage space to accommodate, within reason, each child's clothing and other belongings.

(b) All medicines shall be labeled and stored in a locked compartment designated for this use only except that medicines requiring refrigeration shall be properly stored and clearly labeled. All outdated medicines shall be destroyed.

(c) Provisions shall be made for the safe storage of potentially dangerous items.

**(14) TELEPHONE.** A telephone shall be provided with emergency instructions posted nearby for fire, police and medical assistance. A telephone in a locked room or requiring payment to reach the operator shall not satisfy this requirement.

**(15) EMERGENCY EQUIPMENT.** Each shelter care facility shall have first aid supplies readily available.

**(16) HEATING.** (a) The shelter care facility shall provide a heating system which is capable of maintaining a temperature in living and sleeping quarters of at least 68°F.

(b) The heating unit shall be maintained in a safe condition as determined through an annual check by a qualified individual acceptable to the department.

(c) Portable electric or unvented space heaters shall not be permitted.

**(17) ELECTRIC SYSTEM.** Electrical systems and appliances shall be in good repair and properly protected.

**(18) SANITATION.** (a) All regularly opened windows and doors shall be properly screened.

(b) The water supply shall be of safe, sanitary quality and shall be obtained from a water supply system and location, construction and operation of which shall comply with the standards approved

by the department of natural resources. When water is obtained from a private well, its safety shall be determined by annual testing by a certified laboratory.

(c) The shelter care facility shall be equipped with a water heater adequate to meet the needs of all residents.

(d) All spoiled and deteriorated food products shall be disposed of immediately. All garbage while in the home shall be kept in non-combustible, watertight containers. Garbage shall be removed from the living quarters at least daily, except for those facilities using a garbage compactor, which shall establish a regular schedule for the removal of garbage.

**(19) LIGHT AND VENTILATION.** (a) All habitable rooms shall be provided with adequate light and ventilation.

(b) All sleeping rooms occupied by children shall be rooms with an outside wall and an openable window.

(c) All bath and toilet rooms shall be provided with an openable window or exhaust ventilation.

**(20) FIRE PREVENTION AND SAFETY.** (a) Habitable rooms on the second floor shall be provided with access to 2 exits, at least one of which shall be a stairway exit.

**Note:** A window shall be considered an "exit" if it and its screen or storm window is openable from the inside without the use of tools, not less than 22 inches in the smallest dimension, at least 5 square feet in area and with a lower sill not more than 4 feet from the floor.

(b) Passageways leading to exits shall be clear and unobstructed. One exit door shall be at least 3 feet in width.

(c) All stairs serving 3 or more levels shall have a door at either the bottom or top of the stairs and the door shall be kept closed.

(d) Except for a hold-over room under par. (dm), a shelter care facility shall have a smoke detection system. The smoke detection system shall be an interconnected system of smoke detectors listed by Underwriter's Laboratory or a radio-transmitted smoke detection system which has a centrally mounted alarm horn or alarm horns which, when activated, can be heard throughout the facility. The smoke detection system shall be installed and regularly tested in accordance with the manufacturer's instructions, and a smoke detector shall be located at each of the following locations in the facility:

1. At the head of every open stairway;
2. Above the door leading to every enclosed stairway on each floor level;
3. In every corridor spaced not more than 30 feet apart nor more than 15 feet from any wall;
4. In each common use room, including every living room, dining room, lounge, family room and recreation room, but not in the kitchen;
5. In each sleeping room if smoking is allowed there; and
6. In staff quarters if smoking is allowed there.

(dm) A hold-over room shall either meet the requirements under par. (d) for a smoke detection system or have, at minimum, a functioning battery operated smoke detector located in the room and tested at least once a month and a functioning battery operated smoke detector located outside the room but in proximity to the room, also tested at least once a month, to provide early enough detection and adequate warning for exiting.

(e) There shall be a written posted plan for emergency evacuation of the facility and at the time of placement each resident shall be instructed in the use of the plan. Evacuation procedures shall include provisions for handling residents with limited mobility and shall be reviewed with the staff every 2 months. Large group shelter facilities shall conduct fire drills at least every 2 months.

(f) A charged fire extinguisher acceptable to the local fire department shall be provided in the kitchen and on each floor of the facility. Staff shall be instructed in its use.

(g) Smoking in bedrooms shall not be permitted.

(h) The licensee shall demonstrate that the facility has passed an annual fire safety inspection acceptable to the licensing agency.

**Note:** The licensing agency is the department of health and family services.

(i) All interior doors shall be openable from both sides in case of emergency.

(j) All exterior doors shall be openable from the inside at all times without the use of a key.

**(21) SAFETY MEASURES.** (a) Tubs and showers shall have safety strips applied or other provisions shall be made to prevent slipping.

(b) Stairways, halls and aisles shall be maintained in good repair, adequately lighted and free from obstacles.

(c) Each stairway shall be provided with a handrail and steps shall have a non-slip surface.

(d) Each facility shall have a written plan on file which specifies action and procedures for meeting emergency situations including serious illness, severe weather and missing children.

**History:** Cr. Register, June, 1978, No. 270, eff. 7-1-78; renum. from PW-CY 45.05, Register, December, 1982, No. 324, eff. 1-1-83; r. and recr. (19) (d), Register, October, 1988, No. 394, eff. 11-1-88; emerg. renum. (1) to (20) to be (2) to (21) and am. (8) (b) and (20) (d) (intro.) and 2., cr. (1), (4) (c), (7) (c), (8) (d), (10) (g) and (20) (dm), eff. 12-1-93; renum. (1) to (20) to be (2) to (21) and am. (5) (j), (k), (20) (d) (intro.), 2., cr. (1), (4) (c), (7) (c), (8) (d), (10) (g), (20) (dm), Register, September, 1994, No. 465, eff. 10-1-94.

**HFS 59.07 Records and reporting. (1) RECORDS ON CHILDREN IN SHELTER CARE.** (a) During the time a child is in a shelter care facility, except a hold-over room, the licensee shall maintain a record on the child on a form provided by the department. The record shall contain the following information and shall be kept current and in the shelter care facility:

**Note:** A child record form may be obtained from the Department's website at <http://www.dhfs.wisconsin.gov> or by writing or telephoning any field office listed in Appendix A.

1. Child's name, any alias and sex.
2. Child's birth date.
3. Name of person or agency to be notified in an emergency.
4. Placement date.
5. Person, agency or legal custodian responsible for the child.
6. Alleged offense.
7. Name of physician to be called in an emergency.
8. Medical information about the child, including allergies and special care requirements, and medical attention received while in care.
9. Name and address of parent or guardian.
10. Immediate previous living arrangement.
11. Name of school and grade level.
12. Date of release and destination.
13. If applicable, information on weekend stay as required under s. HFS 59.05 (3) (a).

(b) For each child placed in a hold-over room, the hold-over room licensee shall maintain on file a completed copy of Wisconsin department of justice form JI-03, Temporary Physical Custody Request.

**Note:** The department of justice form JD-1710, Temporary Physical Custody Request may be obtained by writing or telephoning any field office listed in Appendix A or from the Wisconsin Circuit Court website at <http://www.courts.state.wi.us/forms1/index.htm>.

**(2) CONFIDENTIALITY.** Shelter care facility staff and volunteers shall maintain in a locked file and in confidence all information

and records on children. Children shall have the right to examine their own records.

**(3) DEPARTMENT ACCESS TO RECORDS.** (a) At the request of the department, a shelter care facility shall make available for inspection all records on children received by it.

(b) Records shall be held only until the child's 21st birthday and then destroyed, except that a permanent register shall be kept listing the names of the children received for care and the dates of their admission and release.

**(4) RESPONSIBILITY TO THE DEPARTMENT AND THE SUPERINTENDENT.** The licensee shall report to the department and the superintendent of shelter care as soon as possible:

(a) The death of any child in care or any serious illness or injury suffered by a child.

(b) Any fire on the premises which required the services of the fire department.

(c) Any intention to terminate the shelter care facility. Notification shall be at least 30 days in advance of the termination.

(d) Any change in the name of the unit supervisor of any shelter care facility, or a change in the name of the executive, or chairperson of the board, or any change in the corporate structure of a corporation operating a shelter care facility.

**History:** Cr. Register, June, 1978, No. 270, eff. 7-1-78; renum. from PW-CY 45.06, Register, December, 1982, No. 324, eff. 1-1-83; emerg. r. and recr. (1), eff. 12-1-93; r. and recr. (1), am. (3) (a), Register, September, 1994, No. 465, eff. 10-1-94; correction in (4) (d) made under s. 13.93 (2m) (b) 5., Stats., Register, September, 1994, No 465.

**HFS 59.08 License denial or revocation.** The department may deny, revoke or suspend a license, initiate other enforcement actions specified in this chapter or in ch. 48, Stats., or place conditions on a license if the applicant or licensee, a proposed or current employee, a volunteer or any other person having regular contact with the children, has or has been any of the following:

**(1)** The subject of a pending criminal charge for an action that substantially relates to the care of children or activities of the facility.

**(2)** Convicted of a felony, misdemeanor or other offense that substantially relates to the care of children or activities of the facility.

**(3)** Determined to have abused or neglected a child pursuant to s. 48.981, Stats., or has been determined to have committed an offense which substantially relates to the care of children or the activities of the facility.

**(4)** The subject of a substantiated finding of misconduct in the department's nurse aide registry under s. HFS 129.10.

**(5)** The subject of a court finding that the person has abandoned his or her child, or has inflicted physical abuse or neglect on the child.

**(6)** Had a child welfare agency, group home or shelter care facility license revoked or denied within the last 5 years.

**(7)** Violated any provision of this chapter or ch. 48, Stats., or fails to meet the minimum requirements of this chapter.

**(8)** Made false statements or withheld information.  
**History:** CR 04-040: cr. Register December 2004 No. 588, eff. 1-1-05.