

PROPOSED ORDER
OF THE DEPARTMENT OF HEALTH AND FAMILY SERVICES REPEALING AND
RECREATING RULES

The Wisconsin Department of Health and Family Services proposes to repeal and recreate ch. HFS 57, and to create appendices A, B, C, and D, relating to group foster homes for children.

Analysis Prepared by the Department of Health and Family Services

Statutes interpreted: Chs. 115 and 118 and ss. 46.036, 48.02 (1) and (12), 48.023, 48.57, 48.619, 48.625, 48.627, 48.63, 48.64, 48.66, 48.67, 48.68, 48.685, 48.69, 48.70, 48.715, 48.74, 48.78, 48.981 (1) (d), (2), (3) and (7), 48.988, 48.989, 49.857 (2), 51.30 (4), 51.61, 73.0301, 121.53 (1), 165.83 (1) (b), 227.51 (3), 252.04, 346.62, 346.63, 347.48 (1), 347.48 (2m), 448.01 (5) and (6), 450.01 (15), 457.08, 938.02 (13), 938.34 (4h), and 948.02 (10m), Stats.

Statutory authority: Sections 48.67 and 227.11 (2) (a), Stats.

Explanation of agency authority: The Department is required under s. 48.66, Stats., to license and supervise any person who receives, with or without legal custody, 5 to 8 children to provide care and maintenance for those children. These persons are required by s. 48.625, Stats., to be licensed to operate a group home, to pay a licensing fee, and to meet the background check requirements in s. 48.685, Stats. In addition, s. 48.67, Stats., requires the Department to create rules that establish the minimum requirements for licensure and operating standards for group homes that are designed to protect and promote the health, safety, and welfare of the children in the care of licensees.

The Department's authority includes prescribing the form and content of the licensure application form; prescribing the form and content of records and information to be kept and reported by licensees; collecting licensing fees; investigating licensees, applicants for licensure, and non-client residents as defined in s. 48.685; inspecting and having unrestricted access to premises described in the license; issuing probationary licenses; issuing sanctions and penalties, including revocation and suspension of licensure, plans of corrections, and forfeitures; and prescribing license conditions.

Related statute (s) or rule: Sections 48.625, 48.627, 48.63, 48.64, 48.66, 48.67, and 48.68, Stats.

Plain language analysis:

In Wisconsin, 120 group foster homes provide residence, care, and services to children, adolescents and some young adults to age 19, if full-time in school and completing their high school education. The children, youth and young adults residing in group foster homes are under juvenile court jurisdiction and have one or more of the following conditions: emotional or behavioral disorders; drug, alcohol or other substance abuse problems; difficulty acquiring life skills; or a developmental disability.

Placements into group foster homes occur from youth correctional facilities and institutions, county human service or social service agencies and via the interstate compact for placement of children under ss. 48.988 and 48.989, Stats., or are made by courts or parents.

The Department is responsible under ss. 48.625, 48.66 and 48.67, Stats., for the licensure and supervision of group foster homes for children. Licensure requirements and standards for operating a group home are set forth in ch. HFS 57, Wis. Adm. Code. Chapter HFS 57 has not undergone any significant revision since its original promulgation in 1976. The proposed rules seek to update ch. HFS 57 to bring it into compliance with current drafting standards, statutes, and other rules and will add new provisions which support the intent of s. 48.67, Stats., to protect the health, safety, and welfare of children.

While the current group foster home rules address areas related to personnel, care of children, physical plant and environment, the service needs of children and youth have changed considerably since the original promulgation of the group foster home standards in 1976. The complex treatment-related needs and level of services required by children and youth currently being placed in group foster homes necessitates a revision of licensing standards.

The Department proposes provisions related to all of the following:

- Staffing levels and staff qualifications.
- The roles and responsibilities of sponsoring agencies.
- Caregiver background checks.
- Child abuse and neglect reporting responsibilities.
- Admission criteria, individual service plan components, and documentation and review standards.
- Behavior management policies.
- Physical plant, and safety and health of children and youth in care.
- Medical care.
- Policies and procedures for discharging residents.
- Respite care.
- Care for custodial parents and expectant mothers.
- Care for children six years of age and younger.
- Serious incident reporting.
- Patient rights under s. 51.61, Stats., and ch. HFS 94.
- Inspections, complaint investigations, and enforcement actions.

Summary of, and comparison with, existing or proposed federal regulation:

42 USC 671 (2004), Title IV. Grants To States For Aid And Services To Needy Families With Children And For Child-Welfare Services Part E, Federal Payments For Foster Care And Adoption Assistance, requires that in order to be eligible for payments under Title IV-E, states have a plan approved by the Secretary which as stated in paragraph (10), provides for the establishment or designation of a state authority or authorities which shall be responsible for establishing and maintaining standards for foster family homes and child care institutions which are reasonably in accord with recommended standards of national organizations concerned with standards for such institutions or homes, including standards related to admission policies, safety, sanitation, and protection of civil rights, and provides that the standards so established be applied by the state to any foster family home or child care institution receiving funds under this part or part B of this title. Further paragraph (20)(A) requires procedures for criminal records checks for any prospective foster or adoptive parent before the foster or adoptive parent may be finally approved for placement of a child on whose behalf foster care maintenance

payments or adoption assistance payments are to be made under the state plan. This paragraph includes group homes.

The Department was unable to identify any proposed federal rules that address "foster care" or "group foster care" during an Internet search of the Federal Register, conducted on May 10, 2004.

Comparison with rules in adjacent states:

The following is a comparison of group home rules for Illinois, Iowa, Michigan, and Minnesota.

Illinois

The Illinois administrative rules used as a comparison to the Department's proposed group home rules are codified in 89 Ill. Adm. Code 403, Licensing Standards for Group Homes. In spite of the requirement that only licensed child welfare agencies be licensed to operate group homes in Illinois, the proposed rules and the Illinois group home rules are similar. Each set of rules include provisions on group home administration, licensing, staffing, resident care, and physical environment and safety. Differences in the rules are indicated below.

Group home administration

- The proposed rules include provisions concerning corporation-operated group homes. These provisions include requirements for initial operating expenses and additional license application requirements such as providing proof of authorization to do business in Wisconsin and requiring the application to be signed by an authorized representative. The Illinois rules do not expressly include provisions concerning corporation-operated group homes.
- The proposed rules include provisions relating to transporting residents. These provisions specify age of drivers that transport group home residents and include a requirement that licensees check the driving record of individuals who are assigned to transport residents. The proposed rules also prohibit a driver from transporting a resident if the driver has received specified violations within a 12-month period. The Illinois rules do not expressly contain provisions concerning transportation.
- The proposed rules require the licensee to report serious incidents and occurrences of the use of physical restraints ; admission of juvenile offenders to the group home; fire safety inspections; all vehicle accidents; discharge of residents placed under an interstate-compact agreement; and proof of insurance to the Department. Reporting serious incidents to the Department or placing agency must occur in writing within 48 hours of the incident. The Illinois rules contain similar provisions requiring the reporting of serious incidents, however, the Illinois rules do not expressly require the reporting of other situations. Serious incident reporting must be made in writing but may be made verbally and confirmed in writing within two working days of the incident.
- The proposed rules require that group homes maintain resident records for seven years after a resident is discharged from the group home or after the resident turns 19, whichever is later. The Illinois rules do not contain provisions concerning the length of time that resident records must be maintained.

-The proposed rules include admission and discharge provisions. The proposed rules also require that children admitted to a group home have a physical examination within 30 days after admission if an examination was not performed within 1 year of admission. Dental examinations are required within 30 days of admission unless performed within six months before admission and every six months after that time. Illinois requires children to have an examination within 30 days before placement in a group home unless placement is an emergency. In case of an emergency, an examination must be scheduled within five days and completed within 15 days of placement. All children must be screened for communicable diseases within 72 hours of placement. The Illinois rules do not contain additional provisions relating to admission and discharge of residents.

-The proposed rules allow the licensee to request an exemption from rules. The Illinois rules do not contain similar provisions.

-The proposed rules prohibit tobacco use. The Illinois rules do not contain provisions expressly prohibiting tobacco use.

-The Illinois rules include provisions on food products from home-raised animals. Menus must be posted up to a week in advance of a meal being served and records of meals served must be retained for one year. The proposed rules require that menus be written and kept on file for 30 days after the meals are served. The proposed rules do not include provisions concerning home-raised food products.

Licensure and Enforcement:

-Pursuant to the Illinois rules, licensure is prohibited for 12 months after a license is revoked or refused renewal. The proposed rules prohibit licensure for at least 2 years if the applicant has had a license revoked or denied. The proposed rules also identify the circumstances under which a license may be denied and enforcement actions may be taken. The Illinois rules do not identify similar circumstances, however, the rules do prescribe how enforcement actions should proceed.

-The Illinois rules do not contain enforcement provisions. The proposed rules contain extensive provisions relating to enforcement.

Staffing:

-The Illinois rules require that resident care staff have a high school diploma or GED and be at least 18 years old, if there is an on-site supervisor. Resident care staff must be at least 21 years old, if there is no on-site supervisor. In addition, staff is required to have a medical examination every two years. The proposed rules require staff to be 21 years old and have a bachelor degree or associate degree in a specified field; certification by a Department recognized certification authority; work experience; or completion of a traineeship program. A staff member may be 19 or 20 years old if the staff member is pursuing higher education in a specified field during the person's employment with the group home. Newly employed staff are required to have a medical examination and all staff are required to be in good physical and mental health at all times. The proposed rules do not include an explicit requirement for staff to have on-going physical examinations.

-The proposed rules specify that staff be trained in first aid, fire safety and evacuation, and infant and toddler training within a specified period of beginning employment. The proposed

rules also require that staff have at least 24 hours of continuing education per year. The Illinois rules only require that the content of on-going training be designed to familiarize staff with licensing standards. The Illinois rules do not specify the amount of on-going training that staff should have.

Resident care:

-The Illinois rules require group homes to train children in good health and nutrition practices; supervision of children during meal times; and that meals served to on-duty staff and residents be similar. The proposed rules do not expressly include provisions relating to supervision during meal times; meals served to on-duty staff; or training children in health and nutrition.

-The Illinois rules require that residents have an annual physical and dental examination. Residents who are ill or who are suspected of having a contagious disease must be separated from other residents. The proposed rules do not contain provisions on when physical examinations should occur after a resident's initial physical examination except for children under six. The proposed rules also do not contain explicit provisions concerning ill children.

-The proposed rules include explicit provisions on administering medication, including psychotropic medication, to residents. The Illinois rules do not contain express provisions relating to administering medication to residents.

-The Illinois rules prohibit children who are over six years old from sharing a bedroom with children of the opposite sex. The proposed rules prohibit males and females from sharing a bedroom regardless of age.

-The proposed rules contain specific provisions relating to behavior intervention and discipline of residents and specifically prohibit certain staff conduct in interactions with residents. The Illinois rules, used for this comparison, do not contain provisions relating to disciplining residents.

-The proposed rules include special provisions for the care of children under six; expectant mothers; and residents admitted to the group home for respite care. The Illinois rules do not expressly include similar provisions.

Physical environment and safety:

-The Illinois rules require group homes to conduct and document fire and evacuation training at least once every three months. The proposed rule requires documented monthly practice fire evacuation drills, with at least one drill held between midnight and 6 a.m., once every six months. In addition, the proposed rules require staff to personally alert and evacuate disabled residents. The Illinois rules do not include provisions that explicitly address disabled residents.

-Illinois requires that a group home have a minimum of 40 square feet of floor space for sleeping rooms per child. The proposed rule requires 200 square feet of living space for each resident and separately specifies the required square footage for bedrooms. The bedroom space requirements in the proposed rule for group homes licensed before the effective date of the proposed rule is 55 square feet for one child, 50 square feet for per child for two children, and 45 square feet per child for three or more children. The proposed rules require additional space for non-ambulatory residents or residents who use adaptive devices for ambulating, and custodial parents. For group homes licensed after the proposed rule's effective date, the bedrooms space requirements increase.

Iowa

The Iowa administrative rules used in this analysis as a comparison to the Department's proposed group home rules are codified in s. 441 IAC 114, Licensing and Regulation of All Group Living Foster Care Facilities for Children. The proposed rules and the Iowa rules are similar. Each set of rules include provisions on group home administration, licensing, staffing, resident care, and physical environment and safety. Differences are indicated below.

Group home administration:

-Iowa requires group homes to maintain financial solvency and to have sufficient resources for a 3-month operating period. Non-domestic organizations are required to have a designated representative within the state. The proposed rules require corporation-owned group homes to maintain financial solvency, to have sufficient funds for a one-year operating period, and specify a dollar amount that must be available for initial operating expenses. A corporate representative is required to sign the license application when an applicant for licensure is a non-domestic corporation. Proof of incorporation or authorization to do business in Wisconsin is also required.

-The proposed rules include provisions relating to transporting residents. These provisions specify the age of drivers that transport group home residents and include a requirement that licensees check the driving record of individuals who are assigned to transport residents. The proposed rules also prohibit a driver from transporting a resident if the driver has received specified violations within a 12-month period. The Iowa rules do not expressly contain provisions concerning transportation.

- The proposed rules require the licensee to report serious incidents and other activities or situations as appropriate to the Department, placing agency, or parent or guardian. The Iowa rules do not require reporting of serious incidents to the regulatory agency. Serious incident reporting is required to be made to the parents, guardians, the responsible agency or placing agency, and a physician as appropriate.

-Iowa requires group homes to submit resident records to its Department of Human Services in the event that the group home closes. The proposed rules do not prescribe the disposition of resident records if a facility closes. The proposed rules do require group homes to maintain resident records for seven years after the resident leaves the group home or when the child turns 19, whichever is later. The Iowa rules do not include provisions that specify the length of time resident records must be maintained.

-Iowa requires that a physical assessment of a resident be completed within 1 week of admission unless an assessment was completed within 1 year before admission. Dental examinations are required to be completed within 14 days of admission unless the examination was completed within six months before admission and the facility has the examination results. The proposed rules require physical examinations within 30 days after admission if an examination was not performed within 1 year of admission. Dental examinations are required within 30 days of admission unless performed within six months before the admission.

-Iowa's rules include provisions on food prepared off-site and provisions, and on large dishwashing facilities. The proposed rule does not include provisions on off-site food preparation or provisions on dishwashing facilities.

-The proposed rules contain provisions that allow licensees to request exemptions from rules. The Iowa rules do not contain similar provisions.

Licensure and Enforcement:

-The proposed rules prohibit licensure for at least two years if the applicant has had a license revoked or denied. The proposed rules also identify the circumstances under which a license may be denied and enforcement actions may be taken. The Iowa rules do not contain provisions on enforcement. Unannounced visits may be made when residents normally in the facility and awake. Visits at other times may occur only as a result of a specific complaint. The proposed rules do not include similar restrictions on when the Department may visit and inspect group homes.

-The proposed rules specify requirements for making an application for licensure. The Iowa rules do not include provisions on applications for licensure.

Staffing:

-Iowa's rules expressly require that group home personnel policies include provisions on affirmative action and equal opportunity, leave time, grievance procedures, employee evaluations, and due process for suspension or termination. The rules also require caseworker and caseworker supervisor services. Volunteers are required to have a character and reference check similar to that of employment applicants. Resident care staff must be at least 18 years old. No educational requirements are prescribed for resident care staff. Staff training and development plans must be updated annually and supervisory consultation must be available on a 24-hour basis. Iowa's rules do not expressly address training on infant and toddler care, CPR, fire safety, or universal precautions. This training is required by the proposed rules. The proposed rules do not require personnel policies to include affirmative action and equal opportunity, leave time, grievance procedures, employee evaluations, or due process for suspension or termination. The proposed rules have no provisions for character or reference checks for volunteers or for caseworker services. Staff is required to be 21 years old and have a bachelor's degree or associate degree in a specified field; certification by a Department recognized certification authority; work experience; or on the job training. A staff member may be 19 or 20 years old if the staff member is pursuing higher education in a specified field during the person's employment with the group home. There is no requirement in the proposed rules that require training and development plans to be updated.

Resident care:

-Iowa requires the use of a child's personal belongings to be supervised or limited as necessary. Iowa's rules also require a written policy on limitations of a resident's use of funds. The Iowa rules require a written description of work and vocational experiences available to children. The proposed rules do not expressly contain provisions relating to the supervision and limitation of the use of a resident's personal belongings, except that group homes are expressly prohibited from withholding a resident's funds for disciplinary reasons.

-The Iowa rules expressly prohibit the use of experimental drugs. The proposed rules do not contain provisions expressly prohibiting the use of experimental drugs. The proposed rules include separate provisions for the use of psychotropic drugs. The Iowa rules do not contain express provisions for the use of psychotropic drugs.

-The Iowa rules expressly prohibit corporal punishment. The rules require that the rationale for physical restraint and authorization for the use of restraint and staff action and procedures to protect the resident's rights be documented in the child's record. The proposed rules contain specific provisions relating to behavior intervention and discipline of residents and specifically prohibit certain staff conduct in interactions with residents. The proposed rules require that the use of restraint be documented and reported to the Department. Iowa's rules do not contain provisions requiring the use of restraints to be reported to the regulatory agency.

Physical environment and safety:

-Iowa's rules require that firearms be kept locked and inaccessible to children and written policies on use, purpose, and storage of the firearms. The proposed rules prohibit firearms, ammunition, or weapons of any kind in or around the group home. Group homes are required to have written policies and procedures prohibiting the use of firearms, ammunition or weapons of any kind.

-Iowa prohibits tobacco use during food preparation. The proposed rules prohibit smoking on group home premises.

-Iowa requires that fire or disaster evacuation drills be conducted and documented every six months. The proposed rules require documented monthly practice fire evacuation drills, with at least one drill held between midnight and 6 a.m., once every six months. The proposed rules include provisions on smoke detection systems and fire extinguishers. The proposed rules also require that staff personally alert and evacuate disabled residents. Iowa's rules do not contain provisions on smoke detection systems or fire extinguishers.

-Iowa requires a protective covering on all radiators, registers, steam and hot water pipes, electrical outlets, and wall switches. The proposed rules only require protective covering on these items in group homes that care for children under six years old. The proposed rules also require that group homes comply with applicable building code requirements and other laws.

-The proposed rules require 200 square feet of living space for each resident and separately specifies the required square footage for bedrooms. The bedroom space requirements in the proposed rules for group homes licensed before the effective date of the proposed rules is 55 square feet for one child, 50 square feet per child for two children, and 45 square feet per child for three or more children. The proposed rules require additional space for non-ambulatory residents or residents who use adaptive devices for ambulating and custodial parents. For group homes licensed after the effective date of the proposed rules, the bedroom space requirements for Iowa and Wisconsin are the same. Iowa requires a minimum of 60 square feet per child for multiple occupancy and a minimum of 80 square feet per child for single occupancy. The proposed rules require additional space for non-ambulatory residents or residents who use adaptive devices for ambulating, and custodial parents. The Iowa rules do not contain total living space requirements or a provision concerning space requirements for disabled residents.

-Iowa requires written policies and procedures concerning swimming pools, fishing ponds, and other bodies of water near the group home and accessible to children. The proposed rules do not include provisions concerning swimming pools or bodies of water.

Michigan

The Michigan administrative rules used as a comparison to the Department's proposed rules are codified in Mich. Adm. Code R. 400.4106 to 400.4183, Child Caring Institutions. The proposed rules and the Michigan administrative rules are similar. Each set of rules include provisions on group home administration, licensing, staffing, resident care, and physical environment and safety. Differences are stated below.

Group home administration:

-Michigan requires that group homes develop annual plans of financing that include projected income and expenditures and have evidence of sufficient financial resources to meet applicable licensing standards. The proposed rules do not contain provisions that expressly require plans of financing or projected income and expenditures. However, the proposed rules specify the dollar amount that a corporate-owned group home must have available for initial operating expenses. The Michigan rules do not expressly identify a dollar amount that is to be available for initial operating expenses

-The proposed rules require that each serious incident specified in the rules, including deaths be reported in writing to the Department and the placing agency within 48 hours of the occurrence. The Michigan rules require serious injury or illnesses requiring hospitalization to be reported to a parent or referring agency within 24 hours. The death of a resident must be immediately reported to the regulatory agency, parent or next of kin, and referring agency.

-The proposed rules include a requirement that licensees check the driving record of individuals who are assigned to transport residents. The proposed rules also prohibit a driver from transporting a resident if the driver has had specified violations within a 12-month period. The Michigan rules do not expressly require drivers' records to be checked or include any other provisions concerning transportation.

Licensure and Enforcement:

-The proposed rules prohibit licensure for at least two years if the applicant has had a license revoked or denied. The proposed rules also identify the circumstances under which a license may be denied and enforcement actions may be taken.

- In addition to requiring the group home to provide evidence of sufficient financial resources to meet applicable rules and a plan of financial accounting, the Michigan rules require that the group homes give evidence of the need for the type of program the facility proposes to provide. The proposed rules do not contain similar provisions.

Staffing:

-The Michigan rules require that employee records include an evaluation of each employee's performance within the employee's probationary period. The rules also require that an applicant's education be verified when minimum education requirements are specified in the rule. References from at least three non-relatives must also be checked. The proposed rules require group homes to check references from at least two non-relatives and at least three of the applicant's most recent employers. The proposed rules do not expressly require probation period evaluations or that education to be verified.

-The Michigan rules require that group homes verify that volunteers and job applicants are free from communicable tuberculosis within a 3-year period before employment. Michigan also

requires tuberculosis testing of employees to occur every three years. The proposed rules do not include requirements for tuberculosis testing beyond the initial testing before employment. The proposed rules do not require volunteers to be screened for tuberculosis. The proposed rules do however, require employees to be in good physical and mental health.

-Michigan requires resident care staff to have a high school diploma. Supervisory staff is required to have a bachelor's degree and two years work experience in a child caring institution; two years of college and three years of work experience in a child caring institution; or a high school diploma and four years of work experience in a child caring institution. Michigan's rules do not specify an age requirement for staff. The proposed rules require that resident care staff be at least 21 years old and have a bachelor's degree or associate degree in a specified field; certification by a Department recognized certification authority; work experience; or on the job training. Staff may be 19 or 20 years old if the staff member is pursuing higher education in a specified field during the person's employment with the group home.

-Michigan requires group home employees to have a minimum of 50 hours of planned training within the first year of employment and a minimum 25 hours of training annually. The proposed rules do not specify the number of hours of training that should be conducted in an employee's first year of employment, but do specify the type of training required during the first few months of employment. The proposed rules also specify that at least 24 hours of continuing education be provided or arranged for employees annually.

Resident Care:

-Michigan prohibits the disclosure of a resident's identity unless certain circumstances apply. The proposed rules do not expressly contain provisions relating to the disclosure of a resident's identity, but do require that information and records to be kept confidential.

-Michigan's rules restrict the stay of children under six in a group home to 30 days, unless it is documented that a longer stay is in the best interest of the child. The proposed rules do not include a similar limitation. Children are admitted to group homes under court order or voluntary agreement. The length of a resident's stay under a voluntary agreement is limited by statute to 15 days unless the resident is an expectant mother or custodial parent.

-Michigan's rules include provisions on behavior management rooms. The rules require that these rooms be approved for use and that the group home have policies and procedures for the rooms. The proposed rules do not expressly include provisions for behavior management rooms, but do prohibit group homes from locking residents in rooms or closets.

-Michigan prescribes a schedule of periodic physical examination of children by age. The proposed rules do not prescribe a schedule of periodic physical examination of residents except for children under six years of age. The proposed rules do require that residents have a physical examination within 30 days after admission if an examination was not performed within 1 year of admission. Dental examinations are required within 30 days of admission unless performed within six months before the admission.

-In Michigan residents of the opposite sex over five years old may not sleep in the same room. The proposed rules require that males and females not share the same room regardless of age.

Physical environment and safety:

-Michigan requires that the plans and specifications for remodeling, construction or conversions of a structure to be submitted to the regulatory agency for review and approval before for use as an institution. The proposed rules do not have similar provisions. The proposed rules do allow the Department to require a licensee to obtain an inspection of the premises, including the heating, electrical, plumbing, water and sewage systems as necessary to determine whether the health, safety and welfare of children are protected.

-Michigan's rules limit swimming to times when qualified lifeguards are on duty. The proposed rules do not include provisions on swimming.

-The proposed rule requires 200 square feet of living space for each resident and separately specifies the required square footage for bedrooms. The bedroom space requirements in the proposed rules for group homes licensed before the effective date of the proposed rule is 55 square feet for one child, 50 square feet per child for two children, and 45 square feet per child for three or more children. The proposed rules require additional space for non-ambulatory residents or residents who use adaptive devices for ambulating, and custodial parents. For group homes licensed after the effective date of the proposed rules, the bedroom space requirements increase. The Michigan rules require 70 square feet of space for single sleeping rooms and at least 45 square feet is required for multiresident sleeping rooms in new and converted institutions. The Michigan rules do not specify the square footage required for existing group homes, but do require that facilities have sufficient space.

-The proposed rules include specific provisions on smoke detection systems and fire extinguishers. The proposed rules also require that staff personally alert and evacuate disabled residents. The Michigan rules only require that facilities have fire alarm devices. Michigan also requires that facilities establish and follow written procedures for potential emergencies including fire.

Minnesota

-The Minnesota administrative rules used as a comparison to the Department's proposed group home rules are codified in Minn. R. parts 9543.1000 to 9543.1060, Licensure of Programs. The proposed rules and the Minnesota administrative rules are very similar. Differences are stated below.

Group home administration:

-The proposed rules require that residents have a physical examination within 30 days after admission if an examination was not performed within 1 year of admission. Dental examinations are required within 30 days of admission unless performed within six months before the admission. The Minnesota rules only recommend that children have medical and dental examinations before being admitted to a group home.

-Minnesota requires group homes to submit approval from the appropriate governmental authority when requests for variances are related to the fire, building, or health code. The proposed rules do not require similar approval, but the Department may require the licensee to obtain inspections of the premises related to the fire, building or health code.

Licensure and Enforcement:

-The proposed rules prohibit licensure for at least two years if the applicant has had a license revoked or denied. The Minnesota rules do not expressly include a similar provision.

-The Minnesota rules expressly allow denial of licenses if variance requirements are not met. The proposed rules do not expressly allow group home licenses to be denied for failure to meet a variance requirement, however, circumstances under which a license may be denied may be interpreted as allowing such a denial.

Staffing:

-Minnesota's rules expressly prohibit individuals from abusing prescribed medications and from being under the influence of drugs or alcohol while caring for children. The proposed rules require group homes to have written policies and procedures that prohibit any person whose behavior gives reasonable concern for the health, safety and welfare of residents from being in the group home or on the premises.

-The proposed rules require group home staff to be at least 21 years old and to have a bachelor's degree or associate degree in a specified field; certification by a Department recognized certification authority; work experience; or on the job training. A staff member may be 19 or 20 years old if the staff member is pursuing higher education in a specified field during the person's employment with the group home. The Minnesota rules do not expressly specify age or educational requirements for group home staff.

Resident Care:

-The Minnesota rules require that residents have yearly medical and dental examinations. The proposed rules require that children under six receive routine examinations and immunizations.

Physical Environment:

-Minnesota requires that living and recreation space be at least 35 square feet of floor space per child, excluding bathrooms, halls, laundry rooms, bedrooms, furnace rooms, and kitchens. Sleeping rooms for up to four children must have at least 80 square feet of floor space, with minimum horizontal dimensions of at least eight feet. Sleeping accommodations for one child must be at least 60 square feet of floor space. The proposed rule requires 200 square feet of living space for each resident and separately specifies the required square footage for bedrooms. The bedroom space requirements in the proposed rules for group homes licensed before the effective date of the proposed rules are 55 square feet for one child, 50 square feet per child for two children, and 45 square feet per child for three or more children. The proposed rules require additional space for non-ambulatory residents or residents who use adaptive devices for ambulating and custodial parents. For group homes licensed after the effective date of the proposed rule, the bedroom space requirements increase.

Summary of factual data and analytical methodologies:

The Department assembled and consulted with an advisory council in developing the proposed rules. The advisory council included representatives from privately owned and operated group homes, counties, and professional associations. The group home types that were represented included group homes specializing in the care of expectant mothers or custodial parents and respite care. All programs affected by the proposed changes to ch. HFS 57 will receive notice from the Department indicating times, dates and locations of scheduled public hearings; as well

as instructions on how to obtain a copy of the proposed revisions and the procedure to make oral or written comments regarding the revisions.

The Department's regulatory approach is outcome-based, and where necessary for consistency, the Department uses a prescriptive approach. Licensees maintain control and responsibility for group home operations through the use of written procedures, which are required by the proposed rules. The proposed rules are written to protect the health, safety, and welfare of children residing in group homes.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report:

The repeal and recreation of ch. HFS 57 will affect group foster homes that are licensed to care for up to 8 children. As of May 2004, there were 120 licensed group foster homes. Most of these entities are "small businesses" as the term is defined under s. 227.114 (1) (a), Stats.

Anticipated costs incurred by private sector:

The Department anticipates that there may be costs incurred by some group foster homes when these rules are implemented, but that the overall costs will not be significant.

The proposed rules establish increased educational requirements for staff. The costs associated with increasing the qualifications of group home staff are not anticipated to be significantly greater than the costs group homes are currently incurring.

The proposed rules establish staff to child ratios and require awake overnight staff. The increased requirements are needed due to increasingly challenging behaviors exhibited by children and youth admitted to group homes and the need to ensure resident and staff safety. Data collected by the Department related to group home serious incidents that require medical and/or police intervention supports the need for increased staffing requirements. A survey of existing group homes shows that nearly 75% currently have two staff on duty during the first and second shifts and nearly 85% have awake overnight staff; providing evidence that licensees themselves recognize the need for close supervision and monitoring of residents. It should also be noted that many group homes (more than 50%) are not operating at capacity. Many are caring for five to six children rather than maintaining a capacity of eight. For group homes that will be required to hire additional staff; the cost is estimated to be about \$42,209 per year (based on an hourly wage comparable to a Resident Care Technician of \$10.309 x 2920 hours for an annual salary of \$30,102 x .4022 fringe benefits = a fringe rate of \$12,107 for a total annual cost of \$41,104 per employee).

The proposed rules establish physical plant requirements related to the required square footage for each resident. These changes are not anticipated to have a significant impact on existing group homes in that the increased square footage requirements will only be necessary for new facilities. For new facilities, the cost will not be significant and will only be a one-time expense.

The proposed rules require that there be two bathrooms in co-ed facilities. A survey of existing group homes indicates that there are only 4 co-ed facilities that do not have two bathrooms. Therefore, this change is not anticipated to have a significant financial impact.

Effect on small business:

The proposed rules will affect applicants for licensure and the 120 group homes currently licensed by the Department. Section 48.625, Stats., allows individuals, profit and non-profit corporations, and privately owned licensed child welfare agencies to operate a group home so long as the person or entity is licensed by the Department. A majority of the licensed group homes are operated by private entities. The remaining number of group homes is operated by licensed county agencies.

Agency contact person:

Sally Hanko Dees
Division of Children and Family Services
P.O. Box 8916
Madison, WI 53708-8916
608-266-0415

Order

SECTION 1. HFS 57 is repealed and recreated to read:

CHAPTER HFS 57

GROUP FOSTER CARE

SUBCHAPTER I GENERAL PROVISIONS

- HFS 57.01 Authority and purpose
- HFS 57.015 Compliance with administrative rules and laws
- HFS 57.02 Exceptions to rules
- HFS 57.03 Inspections
- HFS 57.04 Definitions
- HFS 57.05 Group home program and policies
- HFS 57.06 Emergency planning and preparation
- HFS 57.07 Rates and bookkeeping
- HFS 57.08 Insurance
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- HFS 57.10 Pets and animals
- HFS 57.11 Telephone
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SUBCHAPTER II PERSONNEL

- HFS 57.14 Personnel requirements
- HFS 57.15 Hiring and employment
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HFS 57.18 Staff member and volunteer responsibilities

SUBCHAPTER III ADMISSION AND DISCHARGE

HFS 57.19 Admissions

HFS 57.20 Discharge

SUBCHAPTER IV RESIDENT CARE

HFS 57.205 Principles for nurturing care

HFS 57.21 Staff to resident ratios and supervision

HFS 57.22 Resident activities

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HFS 57.24 Resident rights

HFS 57.25 Medical care

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HFS 57.27 Behavior intervention

HFS 57.28 Clothing

HFS 57.29 Hygiene

HFS 57.30 Household duties

HFS 57.305 Spending money

HFS 57.31 Food and nutrition

HFS 57.32 Education

HFS 57.33 Sleeping arrangements

HFS 57.34 Non-ambulatory residents

HFS 57.35 Additional requirements for group homes providing respite care

HFS 57.36 Additional requirements for group homes providing care for custodial parents and expectant mothers

HFS 57.37 Additional requirements for care of children 6 years of age or younger

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| | |
|-----------|----------------------------------|
| HFS 57.53 | Transferability of license |
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SUBCHAPTER I GENERAL PROVISIONS

HFS 57.01 Authority and purpose. This chapter is promulgated under the authority of s. 48.67, Stats., to carry out licensing duties authorized under s. 48.66, Stats. The purpose of this chapter is to protect and promote the health, safety and welfare of children placed in group homes.

HFS 57.015 Compliance with administrative rules and laws. A person who is licensed under this chapter shall operate the group home in compliance with this chapter, the provisions of the license, and applicable state, federal, and local law.

HFS 57.02 Exceptions to rules. (1) The department may grant an exception to a non-statutory requirement of this chapter if the department determines that the exception will not jeopardize the health, safety, or welfare of any child served by the group home.

(2) A request for an exception to a non-statutory rule requirement shall be made in writing to the department and shall justify each reason for requesting an exception. The request shall also describe an alternative that meets the intent of the requirement.

Note: Requests for an exception should be sent to the regional licensing office listed in Appendix A that serves the group home.

HFS 57.03 Inspections. (1) The department may visit and inspect a group home and for such purpose shall be given unrestricted access to the premises.

(2) At the request of the department or a placing agency the licensee shall make available for inspection all records on foster care children received by the group home.

HFS 57.04 Definitions. In this chapter:

(1) "Agency-operated group home" means a group home for which the licensee is a public agency other than the department.

(2) "Background information disclosure form" means the department's form HFS 64, on which a person provides certain information concerning the person's background.

(3) "Behavior intervention" means any containment, management or treatment technique or procedure used to intervene in a resident's behavior when that behavior poses a clear and present danger of serious physical harm to the resident or to others.

(4) "Caregiver" has the meaning given in s. 48.685 (1) (ag), Stats.

(5) "Caregiver background check" means the search required by s. 48.685 (2), Stats.

(6) "Child" means a person under 18 years of age or a person age 18 years of age or older who remains under the jurisdiction of the juvenile court or who is being provided services by a child welfare or juvenile justice agency. For the purposes of this chapter, "child" includes a "juvenile" as defined in s. 938.02 (10m), Stats.

(7) "Child abuse" means abuse as specified in s. 48.02 (1), Stats.

(8) "Child neglect" has the meaning given in s. 48.981 (1) (d), Stats.

(9) "Corporation-operated group home" means a home for which the licensee is a non-profit or proprietary corporation that operates one or more group homes.

(10) "Custodial parent" means a resident whose child resides in the group home with the resident.

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

(12) "Emergency" means serious medical incidents, fire, tornadoes, flooding, and loss of services to the group home such as electricity, heat, water or telephone, or threats to the premises or its occupants.

(13) "EPSDT" means early and periodic screening, diagnosis and treatment of persons under s. HFS 107.22.

(14) "Family-operated group home" means a home for which the licensee is one or more individuals who operate not more than one group home.

(15) "Fit and qualified" means displaying the capacity to successfully nurture and care for children and shall not include a history of a civil action, criminal conviction or administrative rule violation that substantially relates to the care of a child; a history of exercising unsound judgment or abuse of alcohol or drugs.

Note: For help in determining whether a civil action, criminal conviction, or administrative rule violation substantially relates to the care of children consult s. HFS 12.06.

(16) "Group home" means a facility operated by a person licensed by the department pursuant to s. 48.625, Stats., to provide 24-hour care for 5 to 8 residents.

(17) "Group home manager" means a person who is responsible for the day-to-day operations of a group home.

(18) "Guardian" means a person or agency appointed by a court to have the duties and authority of guardianship as described under s. 48.023, Stats.

(19) "HealthCheck provider" means a provider certified under ch. HFS 105, to provide EPSDT health assessment and evaluation services.

(20) "Household member" means any person who resides, or is expected to reside, at the group home, who is not a resident of the group home and who has or may have direct contact with group home residents, whether or not related to the licensee.

(21) "House rules" means a summary of the group home's standards related to resident conduct, responsibilities, expectations, and daily activities.

(22) "Law enforcement agency" has the meaning given in s. 165.83 (1) (b), Stats.

(23) "Legal custodian" means a person, other than a parent or guardian, or an agency to whom legal custody of a child has been transferred by a court, but does not include a person who has only physical custody of a child.

(24) "Legal custody" has the meaning given in s. 48.02 (12), Stats.

(25) "Licensee" means a person licensed by the department pursuant to s. 48.66, Stats., to operate a group home.

(26) "Parent" has the meaning specified in s. 48.02 (13), Stats., or in s. 938.02 (13), Stats.

(27) "Permanency plan" means the plan required under s. 48.38 (2), Stats., that is designed to ensure that a child placed in a group home is safely reunified with the child's family whenever appropriate, or that the child quickly attains a safe placement in a home providing long-term stability.

(28) "Physical custody" means actual custody of the person in the absence of a court order granting legal custody to the physical custodian.

(29) "Physician" has the meaning given in s. 448.01 (5), Stats.

(30) "Placing agency" means an agency that is licensed under s. 48.60, Stats., and ch. HFS 54, to place children into adoptive homes, foster homes or group homes, to accept guardianship of children or to license foster homes, a county department with powers and duties as defined under s. 48.57, Stats., the department, the Wisconsin department of corrections or any other authorized placement authority.

(31) "Premises" means the physical plant of the group home, the tract of land on which the group home is situated and any other building or structure on that land.

(32) "Program director" means a person that is either on staff or under contract with the group home to provide program oversight and case management for residents of the group home.

(33) "Relief help" means an individual that is used by the licensee on an irregular and infrequent basis for brief periods of time to provide care for residents.

Note: An individual regularly scheduled to replace a resident care staff on days off or for prolonged periods is considered a resident care staff.

(34) "Resident" means a child placed for care and maintenance in a group home under a court order or by a voluntary agreement.

(35) "Resident care staff" means an individual employed by a licensee to be the usual and primary caregiver of residents.

(36) "Resident rights" means the rights specified in s. 51.61, Stats., and ch. HFS 94, of a resident who receives a service for alcohol or drug abuse, a mental illness, or a developmental disability or for residents not receiving those services, rights and grievance procedures that are comparable to those found in s. 51.61, Stats., and ch. HFS 94.

(37) "Respite care" means maintenance and care of a child with emotional, behavioral, cognitive, physical, or other condition including being at risk of abuse or neglect, placed in a group home for a period of 15 consecutive days or less.

Note: Respite care can be used to relieve a parent or other care provider from the demands of ongoing care when a child is at risk of abuse or neglect or in other crisis situations or both.

(38) "Serious juvenile offender" means a person to whom the court has given the disposition specified in s. 938.34 (4h), Stats.

(39) "Sponsoring agency" means a child welfare agency licensed to place children in group homes, a county agency specified in ch. 48.56(1), Stats., or the department; which enters into a written contract with the licensee.

(40) "Staff member" means a group home director or manager, resident care staff, or relief help.

(41) "Supervision" means guidance of the behavior and activities of a resident by a staff member who is within sight or sound of a resident.

(42) "Treatment plan" means a written plan of services to meet the specific treatment goals and care needs of a resident.

(43) "Universal precautions" means measures taken to prevent transmission of infection from contact with blood or other potentially infectious materials as recommended by the U.S. public health service's centers for disease control and adopted by the U.S. occupational safety and health administration (OSHA) as 29 CFR 1910.1030.

(44) "Volunteer" means an individual who provides services to a group home but is not paid for those services.

Note: This definition does not mean that a volunteer cannot be reimbursed for expenses.

HFS 57.05 Group home program and policies. (1) PROGRAM STATEMENT. Each group home shall have a written program statement that shall include all of the following:

- (a) A description of the group home's purpose and philosophy.
- (b) A description of the services available through or provided by the group home.
- (c) A description of the type, age, and sex of the resident population served by the group home.

Note: Types of resident population refers to a description of the population served by the group home, for example whether the group home serves children with developmental

disabilities; emotional or behavioral disorders; alcohol, drug or other substance abuse problems; juvenile delinquents; correctional aftercare placements; custodial parents; expectant mothers; respite care; or children under 6 years of age.

(d) A description of the daily activities available to residents.

(e) A description of house rules for expected resident conduct.

(f) A non-discrimination statement that indicates that the group home does not discriminate against a resident because of race or cultural identification, sex, age, color, creed, ancestry, national origin, disability, political affiliations, or religious beliefs.

(2) POLICIES AND PROCEDURES. In addition to the emergency planning and personnel policies and procedures required under ss. HFS 57.06 and 57.17, a group home shall have written policies and procedures that include all of the following:

(a) Criteria for levels of supervision of on-premise and off-premise activities of residents.

(b) Confidentiality of resident records.

(c) Medication administration, storage and disposal.

(d) Prohibiting from the premises any person whose behavior gives reasonable concern for the safety of residents.

(e) The use of universal precautions.

(f) Behavior intervention.

(g) Suicide prevention.

(h) Serious incident reporting requirements.

(i) Notifying the appropriate local law enforcement agency if a resident leaves the group home without permission or fails to return to the group home after an approved leave.

(j) Resident access to confidential family planning services.

(k) House rules that shall include all of the following:

1. A description of acceptable and unacceptable resident conduct.

2. Curfew requirements.

3. A description of the consequences for violations of house rules.

4. Procedures related to a resident's absence from the group home without permission.

(L) Prohibiting smoking on the group home premises and in vehicles used to transport residents.

(m) For group homes that serve custodial parents, policies on visitation between a child of a resident and that child's non-custodial parent.

(n) Prohibiting the use of resident labor as a substitute for employment of a sufficient number of competent persons to operate and maintain the group home.

(o) A workable plan for contacting the licensee or a staff member when necessary.

HFS 57.06 Emergency planning and preparation. (1) The licensee shall have written procedures for all of the following:

(a) In case of emergency, contacting the placing agency, parent, guardian, or legal custodian, emergency service providers, a resident's health care provider, the licensee, and staff members.

(b) Fire safety, evacuation drills and response, including evacuation of residents with limited mobility, limited understanding, or hearing impairment in case of fire as specified in s. HFS 57.42 (2) (c), or other emergency.

(2) The telephone number of each of the following emergency service providers shall be posted by each telephone on the premises. If the emergency service providers listed below can be reached by dialing the emergency number "911", then the emergency telephone number "911" may be posted in place of separate emergency provider numbers.

(a) Ambulance service.

(b) Fire department.

(c) Police department.

(d) Hospital.

(2m) The telephone number of the poison control center shall be posted by each telephone on the premises.

(3) Each group home and vehicle used to transport residents shall have a first aid kit or first aid supplies including gauze and adhesive bandages, tape and latex or vinyl gloves; and that will provide care to the maximum number of residents allowed under the group home license. The first aid kit or first aid supplies shall be inventoried and re-supplied after each use.

(4) Phone numbers of staff members to be notified in case of an accident, the name, address, and telephone number of each resident's health care provider and written consent from the resident's parent, guardian, or legal custodian for emergency medical treatment shall be carried in a vehicle when transporting a resident.

HFS 57.07 Rates and bookkeeping (1) (a) CORPORATION-OPERATED GROUP HOMES. A corporation-operated group home shall establish a per client rate for services pursuant to department budget guidelines. The licensee shall arrange for an annual audit report for the group home from a certified public accountant pursuant to s. 46.036 (4) (c), Stats.

Note: Department budget guidelines can be obtained by calling or writing any one of the regional licensing offices listed in Appendix A.

(b) The corporation shall be responsible for the secure and judicious use of the funds of the group home. Policies and practices shall be in accord with sound budgeting, disbursement and audit control procedures.

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

(d) Upon request the corporation shall provide the department with financial information about the corporation or about any group home operated by the corporation.

(2) FAMILY-OPERATED GROUP HOMES. A family-operated group home shall establish and maintain a bookkeeping system that accurately identifies income and disbursements for each resident by categories as defined in the uniform foster care rate setting standards. Resident funds shall not be co-mingled with the funds or property of the licensee or household members, or others.

Note: Uniform foster care rate setting standards are available from county social service or human service departments.

(3) AGENCY-OPERATED GROUP HOMES. An agency-operated group home shall establish a per client rate for services according to department budget guidelines. The licensee shall arrange for an annual audit report for the group home from a certified public accountant in accordance with s. 46.036 (4)(c), Stats.

Note: Department budget guidelines can be obtained by calling or writing any one of the regional licensing offices listed in Appendix A.

HFS 57.08 Insurance. (1) A corporation-operated or an agency-operated group home shall purchase and maintain insurance that provides coverage of the premises and of the risks of the group home in the provision of services as identified by an insurer licensed by the office of the commissioner of insurance.

(2) Unless waived by the department under s. 48.627 (2) (b), Stats., a family-operated group home shall purchase and maintain homeowner's or renter's liability insurance that provides coverage for negligent acts or omissions by children placed in the group home that results in bodily injury or property damage to third parties pursuant to s. 48.627 (2) (a), Stats.

(3) The licensee shall purchase and maintain motor vehicle bodily injury and property damage liability insurance that provides coverage on each motor vehicle used to transport residents. The amount of motor vehicle insurance purchased under this subsection shall be consistent with the amounts specified under s. 121.53 (1), Stats.

HFS 57.09 Weapons. No weapons, firearms, or ammunition may be on the premises.

HFS 57.10 Pets and animals. (1) Any animal that is kept on the premises as a pet shall be vaccinated against rabies as determined appropriate by a veterinarian and shall be tolerant of residents.

(2) A pet suspected of being ill or infected shall be treated immediately for its condition or removed from the group home.

(3) Pens, cages, litter boxes and outside areas used by pets shall be kept clean.

(4) Each pet shall be kept and handled in a manner that protects the safety and well-being of residents and the pet.

(5) No pet may be allowed in any area while food is being prepared.

HFS 57.11 Telephone. A telephone that is operational shall be available on the premises at all times.

HFS 57.12 Transportation. (1) The licensee shall provide safe transportation of residents.

(2) Except as provided in sub. (3) each staff member or volunteer that transports a resident shall be at least 21 years of age, have at least one year of experience as a licensed driver, and hold a current Wisconsin operator's license for the type of vehicle driven.

(3) Before any staff member or volunteer may transport a resident, the person's driving record shall be obtained, reviewed by the licensee and kept on file at the group home. A person's whose driving record shows any one of the violations specified in ss. 346.62 or 346.63, Stats., having occurred in the last 12 months may not transport a resident.

Note: To obtain a copy of a driving record, contact the Bureau of Driver Services, Department of Transportation, P.O. Box 7918, Madison, WI 53707.

(4) The number of residents transported in a vehicle at any one time may not exceed the passenger limit specified by the vehicle's manufacturer.

(5) Any vehicle used by a staff member or volunteer to transport residents shall be in safe operating condition. At 12-month intervals the licensee shall provide the department with evidence of a vehicle's safe operating condition on a form CFS-0052.

Note: Form CFS-0052, Vehicle Safety Inspection, provides instructions on who may conduct the inspection and is used to record evidence of a vehicle's safe operating condition. The form may be obtained from the Department's website at dhfs.wisconsin.gov/forms/index.htm or from the Forms Center, DCFS, P.O. Box 8916, Madison, WI 53707-8916.

(6) Vehicles shall be clean, uncluttered, and free of obstructions on the floors, aisles and seats.

(7) Vehicles shall have seat belts as prescribed under s. 347.48 (1), Stats. Seat belts shall be worn by vehicle occupants as required under s. 347.48 (2m), Stats. Seat belts shall not be shared.

(8) Each child who is 4 years of age or younger or whose weight is 40 pounds or less shall be transported in accordance with the requirements under s. HFS 57.37 (11).

(9) Each motor vehicle used to transport residents shall be insured as required under s. HFS 57.08 (3).

HFS 57.13 Licensee reporting requirements to the department. A licensee shall report all of the following to the department:

(1) **SERIOUS INCIDENTS.** The licensee shall report a serious incident by telephone, mail or facsimile to the regional office that serves the group home within 72 hours after each occurrence including all of the following:

(a) Any incident of suspected child abuse or neglect by an employee of the group home, volunteer of the group home or household member of the group home; including a report made to a law enforcement agency, a county department of social or human services, or a child welfare agency.

(b) Each incident requiring law enforcement services at the group home or that involves a resident.

Note: Examples of serious incidents requiring law enforcement services include acts such as physical or sexual assault, drug related offenses, damage or theft of property or weapons offenses. Serious incidents also include incidents in which a runaway resident is held by law enforcement for an offense such as assault, theft or weapons violations.

(c) The use of a restraint on a resident. A report on the use of a restraint shall be made following the requirements in s. HFS 57.27 (3) (c).

(d) Any injury or trauma to a resident or staff member for which the resident or staff member requires the services of a licensed medical professional including all of the following:

1. A broken bone.

2. A burn.

3. A concussion.

4. A wound requiring stitches.

5. The ingestion of poison or drug overdose.

6. A traumatic incident such as a resident who nearly drowns or suffocates or who goes into shock.

(e) An error in medication administration by either a resident or staff member.

(f) The death of a resident.

(g) A suicide attempt by a resident.

(h) Outbreak of a reportable communicable disease as defined in ch. HFS 145.

Note: Information regarding reportable communicable diseases can be obtained from local county public health departments.

(i) A condition or situation that requires the removal of residents from the group home or the closure of the group home.

(j) Any physical damage to the premises that would affect compliance with this chapter including any structural damage that would affect the safe shelter of children or any failure in the heating, cooling, electrical, plumbing, or smoke or fire detection system that is not repaired or that cannot be repaired within 24 hours after the failure occurs or becomes known.

(k) A fire on the premises that requires the services of a fire department.

Note: Form CFS 2146, Serious Incident Report, may be used to report serious incidents. The form can be obtained from the Department's website at dhfs.wisconsin.gov or by writing or telephoning any one of the regional offices listed in Appendix A.

(2) DISCHARGE OF RESIDENTS FROM OUT-OF-STATE. At the end of each month, the licensee shall report in writing to the department's interstate compact office of each resident from out-of-state that is discharged from the group home that month. The report shall include all of the information specified in s. HFS 57.20 (1) (a) to (e).

Note: Reports of discharged residents from out-of-state may be mailed or faxed to Interstate Compact on Placement of Children, Division of Children and Family Services, 1 West Wilson St., P.O. Box 8916, Madison, WI 53708-8916. The facsimile number is (608) 266-5144.

(3) VEHICLE ACCIDENTS. Within 7 calendar days after an accident involving a vehicle transporting a resident, the licensee shall submit a copy of any resulting police report to the department.

(4) PLACEMENT OF JUVENILE OFFENDERS. The group home shall notify the regional licensing office that serves the group home in writing, by phone or facsimile within 48 hours of the admission of each serious juvenile offender as defined in HFS 57.04 (38) unless that is the primary client group served by the group home.

(5) BEHAVIOR INTERVENTION. A licensee shall report to the department each incident of physical restraints used with a resident within 72 hours of each occurrence.

Note: Form CFS 2146, Serious Incident Report, may be used to report physical restraints. The form can be obtained from the Department's website at www.dhfs.wisconsin.gov or by writing or telephoning any one of the regional offices listed in Appendix A.

(6) PROOF OF INSURANCE. The licensee shall annually submit to the department proof of insurance purchased and maintained pursuant to HFS 57.08.

(7) DISCONTINUING OR CHANGING OPERATIONS. (a) The licensee shall notify the department in writing at least 30 calendar days before discontinuing operation of a group home. The notice shall include the discharge summary specified in s. HFS 57.20 (1) and the post-discharge plan required under s. HFS 57.23 (3) (b), for each resident.

(b) The licensee of a corporation-operated group home shall notify the department within 30 calendar days of any change in the executive responsible for the group home, the chairperson of the board or in the corporate structure.

(8) PLANS OF CORRECTION. If requested by the department, the licensee shall submit a plan of correction for cited violations of this chapter or ch. 48, Stats., in a format provided by the department. The plan of correction must be received by the date specified by the department and be approved by the licensing representative.

Note: The licensing representative will notify the licensee at the conclusion of a licensing visit or within 10 working days after the licensing visit, if a plan of correction is required, the date the plan of correction is to be received by the Department, and format.

(9) FIRE SAFETY INSPECTION. The licensee shall submit annually to the department, the results of the fire safety inspection required under s. HFS 57.42 (4).

(10) BACKGROUND INFORMATION REPORTING. (a) When an individual that is not a client becomes a household member or is expected to become a household member, the licensee, as soon as possible, but no later than the department's next business day, shall submit to the department a background information disclosure form for the individual.

Note: The background information disclosure form (form HFS 64) may be obtained from the Department's website at dhfs.wisconsin.gov or by writing or telephoning any regional licensing office listed in Appendix A.

(b) As soon as possible but no later than the department's next business day, the licensee shall report to the department for the licensee and each household member who is 10 years old or older all of the following background changes:

1. The person has been convicted of any crime.
2. The person has been or is being investigated by any governmental agency for any act, offense or omission, including an investigation related to the abuse or neglect, or threat of abuse or neglect, to a resident or other individual; or an investigation related to misappropriation of a client's property.
3. The person has a governmental finding substantiated against them of abuse or neglect of a client or of misappropriation of property.
4. In the case of a position for which the person must be credentialed by the department of regulation and licensing, the person has been denied a license or the person's license has been restricted or otherwise limited.
5. The person has pending criminal charges.

(11) WELL WATER NITRATE LEVELS. For group homes with expectant mothers or infants under 6 months old, the licensee shall report water nitrate levels as required in ss. HFS 57.36 (8) and HFS 57.37 (8).

Note: Reports submitted under this section should be submitted to the regional licensing office listed in Appendix A that serves the group home.

HFS 57.135 Responsibility to placing agencies. (1) The licensee shall notify the placing agency as soon as possible of any emergency involving the resident. This includes serious illness or injury requiring medical treatment, death of a resident or child, unauthorized absence from the home, use of physical restraint, physical intervention, or any other similar crisis related to a group home resident. This requirement does not relieve the licensee from first taking whatever action is necessary to protect the health, safety and welfare of the resident.

(2) The licensee shall keep the placing agency informed of the resident's progress while in care and shall consult with the agency regarding treatment plans and treatment plan reviews, care, training, and plans for the resident whenever more than the day-to-day routine is involved.

SUBCHAPTER II PERSONNEL

HFS 57.14 Personnel requirements. (1) **DEFINITIONS.** In this section, "college" or "university" means an institution which is accredited on a degree granting level by an accrediting agency which is listed by the United States department of education as a nationally recognized accrediting agency.

(2) **AGE REQUIREMENT.** A staff member hired or contracted for on or after the effective date of this chapter [revisor to insert effective date] shall be at least 21 years old. Except as provided in sub. (4) (a), a staff member who is 19 or 20 years old may be hired or employed, if during the individual's course of employment the individual is enrolled in and regularly attends a college or university with a major in any of the following:

- (a) Social work.
- (b) Sociology.
- (c) Special education.
- (d) Psychology.
- (e) Counseling and guidance.
- (f) Criminal justice.
- (g) Any other area in the human services field as approved by the department.

(3) **HEALTH** (a) Each staff member and volunteer shall be physically, mentally and emotionally able to provide responsible care for residents and shall not pose an imminent threat of harm to residents or to the quality and manner of their care.

(b) If the department has reason to believe that the physical or mental health of a staff member or an applicant for employment may endanger a resident, the department may require that a written statement be submitted by a physician or, if appropriate, by a licensed mental health professional that certifies the condition of the individual and the possible effect of that condition on the group home or the residents in care.

(4) **REQUIRED STAFF.** A licensee shall staff each group home with all of the following personnel:

(a) A program director. The program director shall be at least 21 years old, have a 4-year college degree in one of the major fields of study specified in sub. (2), and 2 years of supervised child welfare work experience. The program director function can be provided by a sponsoring agency. The program director or sponsoring agency shall oversee program operation and development and do all of the following:

1. Review the appropriateness of admission of each child to the group home.
2. Participate in developing, reviewing, and updating resident assessments and treatment planning.
3. Provide technical assistance to the resident care staff and agencies.
4. Periodically review and update group home policies and procedures.

Note: A sponsoring agency is defined in s. HFS 57.04 (39) to mean a child welfare agency licensed to place children in group homes; county agency specified in ch. 48.56 (1), Stats.; or the department, which enters into a written contract with the licensee.

(b) A group home manager. The group home manager shall oversee the day-to-day operations of the group home. The group home manager shall have the qualifications specified in par. (c). A group home manager may also function as the program director if the group home manager meets the requirements specified in par. (a).

(c) The licensee shall employ at least 2 resident care staff. Additional resident care staff shall be employed in numbers sufficient to meet the staff to resident ratios specified in ss. HFS 57.21 and 57.36 (5) and for any off-premise activities. Resident care staff shall be responsible for the day to day care and supervision of residents and shall have at least one of the following qualifications:

1. A bachelor or associate degree from a college or university in any one of the majors specified in sub. (2).
2. At least one year of full-time experience working in a formal program with the type of resident population served by the group home.
3. Certification as a child and youth care worker under the standards of the Wisconsin Association of Child and Youth Care Professionals or other department-recognized certifying authority.

Note: A copy of the standards of the Wisconsin Association of Child and Youth Care Professionals can be obtained from the www.wacycp.org/ or by contacting WACYCP at 161 W. Wisconsin Avenue, Milwaukee, WI 53202; telephone (414) 227-3130. Information regarding other recognized certifying authorities may be obtained by contacting any regional licensing office listed in Appendix A.

4. Completion of a traineeship program in which the resident care staff has worked with qualified, experienced resident care staff for at least the first 80 hours of employment and received orientation training as specified under s. HFS 57.16 (1), before working independently with residents.

(5) RELIEF HELP. The licensee may use relief help to temporarily provide care and supervise residents when the number of resident care staff is not sufficient to meet the staff to resident ratios specified under ss. HFS 57.21 or 57.36 (5).

(6) VOLUNTEERS. Each volunteer used by the group home shall be supervised by a staff member. Before a volunteer may begin performing activities, the licensee shall do all of the following:

(a) Orient the volunteer to the activities that the volunteer may perform as specified in the group home's personnel policies and procedures.

(b) Provide each volunteer with the confidentiality requirements specified under s. HFS 57.39 and the child abuse and neglect reporting requirements specified under s. HFS 57.18 (1).

HFS 57.15 Hiring and employment. (1) In this section a "physician's assistant" has the meaning in s. 448.01 (6), Stats.

(2) Before an applicant begins employment, the licensee shall do all of the following:

(a) Conduct and document a caregiver background check pursuant to s. 48.685, Stats., and ch. HFS 12, on each applicant.

Note: Forms for conducting a caregiver background check, including the background information disclosure form (form HFS 64) may be obtained from the Department's website at www.dhfs.wisconsin.gov or by writing or telephoning any regional field office listed in Appendix A.

(b) Obtain favorable references from at least 3 non-relatives, with documentation by letter from the reference or by documentation in the record of verbal contact with a reference. Documentation shall include the date contact was made, the name of the individual conducting the reference, the name of the individual contacted, and a summary of the response.

(c) Upon hire and before working with residents, require each staff member, except relief help to have a tuberculosis test and provide certification from a physician, physician assistant, or a HealthCheck provider that the staff member meets the minimum physical requirements of the position and that the staff member is in general good health.

Note: A HealthCheck form may be obtained by contacting the local public health department. Physical examination report forms can be obtained by contacting the regional licensing office listed in Appendix A.

(d) Make a determination of whether the applicant is fit and qualified.

Note: The term "fit and qualified" is defined in s. HFS 57.04 (15) to mean a person who displays the capacity to successfully nurture and care for children and who does not have a history of a civil action or criminal conviction or administrative rule violation that substantially relates to the care of a child, or who exercises unsound judgment or who abuses alcohol or drugs. For help in determining whether a civil action, criminal conviction, or administrative rule violation substantially relates to the care of children, consult s. HFS 12.06.

(e) Nothing in this section requires a licensee to hire an applicant for employment or to retain any staff member.

(3) The licensee shall require each staff member to complete a background information disclosure form and shall conduct a caregiver background check on each staff member every 4 years or at any time within that period.

(4) A licensee may not hire or employ a person who has had a group home license revoked or denied within the last 2 years.

HFS 57.16 Training. (1) **ORIENTATION** Within the first week of hire, the licensee shall provide the staff member with all of the following:

(a) A job description created under s. HFS 57.17 (1) (a). The job description shall be signed and dated by each staff member upon receipt by the staff member.

(b) The group home's program statement and policies and procedures, including the personnel policies and procedures created under s. HFS 57.17 (1).

(c) Requirements of child abuse and neglect reporting specified under s. 48.981 (2) and (3), Stats., and information on how to identify and report abuse or neglect situations.

(d) Instruction on how to use fire extinguishers, and on emergency and evacuation procedures

(e) Any other information that would orient the staff member to the group home.

(2) **CPR AND FIRST AID TRAINING.** Within 6 months after the date of hire, each staff member shall successfully complete first-aid training and cardio-pulmonary resuscitation training from an American Red Cross or a program certified by the American Red Cross or American Heart Association. The certification shall be renewed in accordance with training guidelines.

(3) **FIRE SAFETY AND EVACUATION TRAINING.** Within 6 months after the date of hire, each staff member hired or contracted for on or after the effective date of this chapter (revisor to insert effective date) shall successfully complete fire safety and evacuation training provided by the Wisconsin Technical College System or a comparable course approved by the department.

(4) **INFANT AND TODDLER CARE.** Before a staff member or volunteer may provide care and supervision for an infant or toddler as defined under s. HFS 57.37 (2) (a) and (b), the staff member or volunteer used to meet staff to child ratios shall complete the training specified under s. HFS 57.37 (4).

(5) **CONTINUING EDUCATION.** A licensee shall provide or arrange for at least 24 hours of continuing education annually to each staff member. The training shall pertain to caring for the resident population served by the group home. Types of training that may be acceptable to the department to meet continuing education requirements include all of the following:

(a) Formal courses resulting in credits or continuing education units.

(b) Training provided by the licensee, a staff member, or a volunteer. A summary of the training syllabus shall be kept on file at the group home.

(c) Workshops, conferences, seminars, lectures, correspondence courses, or home study courses.

(d) Time spent reading and viewing educational materials pertaining to the resident population served by the group home may be counted for up to 5 hours of continuing education per year.

HFS 57.17 Personnel policies and records. (1) POLICIES. A licensee shall have written personnel policies and procedures. The policies and procedures shall include all of the following:

(a) The creation and use of job descriptions that describe the staff member's roles, responsibilities and duties.

(b) An orientation plan that shall include how and when orientation of new hires and volunteers will be conducted and documented.

(c) Work schedules of each staff member and policies on the use of relief help.

(d) Continuing education and training requirements.

(e) Designation of the chain of command or supervisory structure in the group home.

(f) A requirement that each staff member notify the licensee as soon as possible, but no later than the staff member's next working day of the circumstances listed in s. HFS 57.18 (3).

(g) A description of the activities that a volunteer may perform for the group home, orientation of the volunteer, supervision and assurance that the volunteer is following group home policies and procedures, and the information to be provided on the laws of confidentiality and reporting of abuse and neglect.

(h) Handling of emergencies.

(2) PERSONNEL RECORDS. The licensee shall establish and maintain on the premises a personnel record for each staff member. Each personnel record shall contain all of the following for the staff member for which the record was created:

(a) A completed application for employment that shall include the staff member's name, address, date of birth, training, education, work experience, and date of hire.

(b) Current address.

(c) Addresses and telephone numbers of references and reference checks results.

(d) A completed and current HFS 64 background information disclosure form.

(e) The results of the caregiver background check conducted under s. HFS 57.15 (2) (a) and (3), and the results of any subsequent investigation related to information obtained from each background check.

(f) A job description that is signed and dated by the staff member.

(g) A completed physical examination or HealthCheck form, including tuberculosis test results.

(h) The staff member's driver's record, if the staff member is assigned to transport children.

(i) A training record that shall include documentation of the staff member's receipt of the orientation, training, and continuing education required under s. HFS 57.16. Documentation shall include all of the following:

1. Date and time of orientation and each training session.
2. Name of each person that conducted each orientation and training.
3. Total hours of training or continuing education received.
4. Whether the staff member completed the requirements of the training or continuing education session.

(j) Documentation of all first aid and CPR certifications.

(k) Any disciplinary actions issued to the employee.

(2m) Relief help are exempt from providing a physical examination or HealthCheck form to the licensee.

(3) VOLUNTEER PERSONNEL RECORD. The licensee shall establish and maintain on the premises a volunteer personnel record for each volunteer used by the licensee. Each record shall contain all of the information required in sub. (2) except the physical examination or HealthCheck form and caregiver background check results.

HFS 57.18 Staff member and volunteer responsibilities. (1) Pursuant to s. 48.981 (2) and (3), Stats., a licensee, staff member, or volunteer who knows or has reasonable cause to suspect that a child has been abused as defined in s. 48.02 (1) Stats., or neglected as defined in s. 48.981 (1) (d), Stats., shall immediately inform by telephone or in person, a county department of human or social services or a local law enforcement agency.

(2) Staff members and volunteers shall keep information and records on residents confidential pursuant to the requirements in s. HFS 57.39.

(3) Each staff member shall notify the licensee as soon as possible, but no later than the staff member's next working day of all of the following:

(a) A conviction of any crime.

(b) A current or past investigation by any governmental agency for any act, offense, or omission, including an investigation related to the abuse or neglect, or threat of abuse or neglect, to a child or other client, or an investigation related to misappropriation of a client's property.

(c) A governmental finding substantiated against them of abuse or neglect of a client or of misappropriation of a client's property.

(d) A denial, restriction, or other limitation of a license or credential from the department of regulation and licensing.

(4) The staff member shall demonstrate competency in the group home's program statement, policies and procedures, roles and responsibilities, and resident rights.

SUBCHAPTER III - ADMISSION AND DISCHARGE

HFS 57.19 Admissions. (1) A child may not be admitted to a group home except under a written voluntary agreement or court order.

(2) Except as provided in sub. (2m), admission of a child under a voluntary agreement may not exceed 15 days from the date the child was removed from the home and may not be extended.

(2m) An admission of a custodial parent or expectant mother may be under a voluntary placement agreement for no longer than 180 days from the date on which the child was removed from the home under the agreement. A placement agreement under this subsection may be extended if an independent reviewing agency, such as an agency licensed under s. 48.61 (3), Stats., or a county department, determines that the extension would be in the best interests of the resident and if the resident and the resident's parent or guardian consent to the extension.

(3) If a placing agency places a child in a group home, the agency shall enter a written agreement with the licensee. The agreement shall include all of the following pursuant to s. 48.64 (1m), Stats.:

(a) That the agency shall have access at all times to the child and the group home.

(b) That the child will be released to the placing agency whenever the agency or the department finds that the best interest of the child requires it.

(4) Admission decisions shall be in accordance with the group home program statement, the compatibility of the child with the group home and the policies and procedures of the group home, and this chapter.

(5) (a) Except as provided in par. (b), there shall be no more than 4 years difference in the ages of the children admitted to the group home as residents.

(b) The age difference limitation stated in par. (a) does not apply to children admitted to a group home licensed for respite care or for homeless and runaway youth.

(6) Admission of an 18 year old may only occur if the individual is under a Wisconsin original, extended, or serious juvenile offender delinquency disposition. Such placements may continue until the resident reaches age 19 only as part of a correctional aftercare placement. Up to two 18 year old residents may reside in the group home at any one time.

(7) Each child admitted to a group home as a resident shall have had a health examination performed by an individual licensed to perform the examination no more than one year before being admitted to the group home or shall have the examination within 30 days after the date of admission if the consent required under s. HFS 57.25 (1) has been obtained. Documentation of the examination shall be maintained in the resident's record as required in s. HFS 57.38 (1) (i) 3.

(8) Before or upon admission to a group home each resident shall be provided with all of the following:

(a) Information on exits and evacuation routes.

(b) Oral notification and a written copy of the resident rights specified in s. HFS 57.24. If the resident is 17 years of age or younger, a copy shall also be made available to the resident's parent or guardian, and legal custodian, if available.

(c) A copy of the house rules developed under s. HFS 57.05 (2) (k). A copy of the house rules shall also be provided to the resident's parent, guardian, or legal custodian, as appropriate.

(9) Upon receipt of a notice of revocation of the group home license and during any revocation proceedings that may result, the licensee may not admit a child as a resident except as provided in s. HFS 57.56 (2).

HFS 57.20 Discharge. (1) Except as provided in sub. (3), the licensee shall complete and send to the appropriate placing agency a discharge summary for each resident discharged from the group home within 30 days of the resident's discharge. A copy of the summary shall be placed in the resident's record. The discharge summary shall include all of the following:

(a) Dates of the resident's stay.

(b) Reason for discharge.

(c) Summary of incidents involving the resident as described in HFS 57.13(1).

(d) Description of type of admission.

(e) Any other relevant information.

(2) The discharge summary developed for a respite care or other placement under a voluntary agreement shall be provided to the parent, guardian, legal custodian, or placing agency, as appropriate upon discharge. A copy of the summary shall be placed in the resident's record.

(3) Thirty days before a discharge of a resident whose placement is court ordered for reasons other than revocation or denial of a license, the post-discharge plan developed under s.

HFS 57.23 (3) shall be provided to the resident, the resident's parent, guardian or legal custodian, if available.

(4) The licensee shall allow the placing agency at least 15 days to make plans for a resident whom the licensee requests that the placing agency remove from the group home unless both parties agree to earlier removal.

(5) All of the resident's personal belongings, including medical equipment shall accompany the resident upon discharge. A complete accounting of these items shall be placed and maintained in the resident's record required under s. HFS 57.38. Medication shall be handled as required under s. HFS 57.25 (6) (e) to (g).

(6) By the effective date of a license revocation the licensee shall have arranged for alternative placement for each resident. Arrangements for alternative placement shall be made in cooperation with each resident's parent or guardian, and legal custodian or placing agency, if not the same. The licensee shall share the placement information with the licensing representative at least one week before the effective date of the revocation.

SUBCHAPTER IV - RESIDENT CARE

HFS 57.205 Principles for nurturing care. The group home shall do all of the following:

(1) Provide a safe, stable, and humane environment.

(2) Encourage a resident's autonomy, respect a resident's need for privacy and consider a resident's preferences and choices while providing care, supervision, and training.

(3) Provide care that is respectful toward the beliefs, interpersonal styles, attitudes and behaviors of residents and families of various cultures.

HFS 57.21 Staff to resident ratios and supervision. (1) (a) In a shift-staffed group home, during hours other than sleep, there shall be at least one staff member on duty whenever 5 or fewer residents are present. At least 2 staff, or one staff and one qualified volunteer shall be on duty if there are 6 or more residents present. Whenever residents are asleep, at least one resident care staff or relief help shall be awake unless an alternate means of assuring the safety of residents is provided by the group home and approved by the department. The group home must assure that residents are responded to if needed. The number of resident care staff shall be increased as necessary to provide the care and services identified in the group home's program statement and plan of activities.

(b) Volunteers may be used to meet the staff to resident ratio requirement when 6 or more residents are in care provided they meet staff qualifications under s. HFS 57.14 (4) (c).

Note: Some staffing alternatives for night time hours that may be approved by the department include but are not limited to: use of door alarms, motion detectors, laser or lights.

(2) No resident may be in the group home without supervision by a staff member.

(3) A resident shall receive supervision appropriate to the resident's age, maturity, behavior and developmental level and sufficient to ensure the safety of all residents in the group home.

HFS 57.22 Resident activities. (1) ACTIVITY PLANNING AND SCHEDULING.

The licensee shall establish and implement a written plan of general activities for residents that shall include all of the following:

- (a) Leisure-time activities.
- (b) Opportunities to engage in social and community activities.
- (c) Self-expression and communication.
- (d) Opportunities for physical exercise to encourage gross and fine motor development.
- (e) Guidance and assistance in the development of daily living skills.
- (f) Activities appropriate to a resident's ethnic culture.
- (g) Opportunities for activities geared towards the individual interests of residents.

(2) RELIGIOUS TRAINING AND PRACTICE. Each resident shall be provided with opportunities for voluntary religious expression and participation in religious education and attendance at services compatible with the religious preference of the resident, or a parent or guardian of the resident.

(3) RECREATION. A variety of indoor and outdoor recreational activities and developmentally appropriate play equipment shall be offered.

(4) TELEPHONE USAGE. Telephone usage by a resident shall be governed by the resident rights under s. HFS 57.24 and the resident's treatment plan or placement agreement.

HFS 57.23 Treatment planning and assessment. (1) ASSESSMENT. (a) Residents. Within 30 calendar days after the date a resident is admitted to the group home, a staff member shall perform a comprehensive written assessment of the resident for use in the development of a treatment plan. If the child is admitted to the group home under a voluntary agreement for respite care, the assessment shall be completed by the date of admission to the group home and shall include all of the following:

1. Information about the resident's developmental, behavioral, educational and medical history; family and significant relationships; legal history; substance abuse history and any past treatment.

2. A description of the resident's current status, including mental status, medical needs, current activities, educational status, any current and recent substance abuse usage and personal strengths.

(b) *Children of Residents.* Assessments of children of residents are not required.

(2) TREATMENT PLAN. (a) Upon completion of the assessment required under sub. (1), the program director shall develop a written treatment plan with the participation of the resident, a parent or guardian and the legal custodian, if available, and the persons who will provide the required services to the resident. A completed treatment plan for each resident shall be placed

in the resident's record maintained by the group home under s. HFS 57.38, and shall include all of the following:

1. A description of the resident's strengths, needs, and preferences.
2. Treatment goals for the resident and the time frames for achieving those goals.
3. A description of behavior interventions to be utilized with the resident. The licensee shall ensure that methods of behavior intervention are positive, based on the resident's needs, stage of development and behavior and promote self control.
4. Specific services and supports to be provided to achieve the treatment goals, and names of persons, agencies or position titles responsible for providing services and implementing any of the treatment goals.
5. Permanency planning goals.
6. Goals related to independent living skills, if the resident is 15 years of age or older.
7. Specific indicators that treatment goals have been achieved.
8. Any court ordered conditions.
9. Projected length of stay and conditions for discharge.
10. Visits to the resident by parents and other family members with the approval of the placing agency and in accordance with clients' right standards to ensure that an appropriate relationship is maintained between the resident and family members.
11. Arrangements for public school attendance.
12. Consideration of the additional requirements for care of custodial parents and expectant mothers under s. HFS 57.36 and care for children under 6 years of age under s. HFS 57.37, as applicable.

(b) Each treatment plan shall be reviewed at least once every 3 months. The review shall be conducted by all of the persons included in the initial development of the plan, if possible. All of the following shall be reviewed and documented:

1. Progress made toward achieving the goals established in the treatment plan and any barriers encountered in achieving the goals.
2. Any changes in the treatment plan, including any changes to specific indicators of revised goals, time frames for achievement of treatment goals, and service providers.

(3) DISCHARGE PLANNING. (a) Preparation for discharge shall begin at the time of admission with the outlining of goals to be achieved and ongoing modification as progress towards goals dictates. The group home shall document in the resident's record efforts made by staff members to prepare the resident and the resident's family for discharge.

(b) The resident; the parent, guardian, or legal custodian; and the placing agency shall be given an opportunity to participate in developing a post-discharge plan. The plan shall include recommendations for continuing or additional services upon discharge and the name of the person or agency to receive the resident upon discharge, if applicable.

HFS 57.24 Resident rights. (1) 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 who 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 grievance resolution procedures that are comparable to those found in s. 51.61, Stats., and ch. HFS 94.

(2) A copy of the HFS 94 patient's rights and the group home grievance procedure shall be posted in each group home in a prominent place accessible to residents, staff members and visitors.

Note: Patients' rights information and posters can be obtained at the Department's website at dhfs.wisconsin.gov/bqaconsumer/publications/ClientsRtsPubs.htm.

HFS 57.25 Medical care. (1) CONSENT. (a) Any medical examination or service provided to a resident shall be provided only by an individual licensed to perform the examination or service being provided. Before an examination or service is provided, written consent to perform the examination or service shall be obtained as follows:

1. For a resident who is under 14 years of age, written consent of a resident's parent or guardian.

2. For a resident who is between 14 and 18 years of age, consent of the resident's parent or guardian with the consent of the resident whenever feasible.

3. For a resident who is 18 years of age or older, consent of the resident is required unless the resident has been deemed incompetent by a court and has a court appointed guardian or legal custodian, in which case the consent of the guardian or legal custodian is required.

(b) Consent shall include consent to administer emergency medical services including surgery for life threatening situations when a parent, cannot immediately be reached. Verbal consent may be obtained in an emergency situation where time or distance precludes obtaining written consent. Both the written consent and any verbal consent shall be documented in the resident's record, by indicating who obtained the consent, who gave the consent and that person's relationship to the resident, and what specific services are authorized by the consent. A verbal consent shall be valid for 10 calendar days, during which time there shall be a good faith effort to obtain written consent.

(2) MEDICATION ADMINISTRATION. (a) *Information required to administer medication.* No staff member may administer medication to a resident unless the staff member has received the group home's policies established under s. HFS 57.05 (2) (c) for administering and monitoring medication use.

(am) After receiving the information described in sub. (2)(a), staff shall receive the following:

1. Procedure for administering the medication being given as described by the physician, pharmacist or as indicated on the label of an over the counter medication or a prescribed medication or both. If the label on prescribed medication is not clear, a staff member shall contact the pharmacy that filled the prescription for clarification.

2. Procedures for documenting the administration of medication as specified under sub. (3).

3. The purpose of the medication.

4. Any potential adverse side effects of the medication being administered.

5. Procedure to follow if a resident refuses medication, including refusal of psychotropic medication as described in sub. (7).

6. Known drug allergies of the resident.

7. Any other information that may be relevant to administration of the medication.

(b) *Limitation on who can administer medication.* Medication may be administered to a resident only in the presence of a staff member that has been authorized in writing by the program director or the group home manager, to administer medication.

(c) *Self administration.* Medication may be self-administered by a resident only under all of the following conditions:

1. Self-administration is authorized in writing from the prescribing practitioner.

2. There is no demonstrated history of risk that the resident may harm self through abuse or overdose.

3. The resident's treatment plan includes an evaluation by the program director of the resident's capability to self-administer medication.

4. The resident recognizes and distinguishes the medication or treatment and knows the condition or illness for which the medication or treatment is prescribed, the correct dosage, and when the medication or treatment is to be taken.

5. The medication is not a psychotropic medication as defined in sub. (7) (a).

(3) **MEDICATION ADMINISTRATION DOCUMENTATION.** (a) Immediately upon administering medication to a resident or a resident self-administering medication, the staff member administering or supervising the administration of medication shall write all of the following in the resident's record:

1. Full name of the resident to whom the medication was administered.

2. Date and time the medication was administered.

3. Name and dosage of the medication administered or medical treatments received.
4. Signature of the staff member who administered or supervised the administration of medication.
5. Any refusal of medication.
6. Any adverse reaction to the medication and steps taken to notify the resident's health care provider, parent, guardian, or legal custodian.
7. Any error in medication administration and the steps taken to notify the resident's physician as required in sub. (5).

(b) Each entry made under this subsection shall be written in ink.

(4) **ADVERSE REACTION TO MEDICATION.** In the event of an adverse reaction to any medication, a staff member shall immediately notify the resident's parent or guardian and the attending physician.

(5) **MEDICATION ERRORS.** The attending physician shall be notified in the event of a medication error. The department and placing agency shall be notified as required in ss. HFS 57.13 (1) (e) and 57.135.

(6) **MEDICATION STORAGE AND DISPOSAL.** The licensee shall comply with all of the following requirements for storing medication:

(a) Medication including over-the-counter medication, shall be kept in the container in which it was purchased or prescribed. No person may transfer medication that has been prescribed or purchased over-the-counter to another container or change the label on any medication, unless the person is a pharmacist as defined in s. 450.01 (15), Stats.

(b) Medication shall be locked and stored in a location that is inaccessible to children. Only staff members who are designated in writing by the program director shall have access to keys to the medication. Prescription and over-the-counter medication shall not be stored next to chemicals or other contaminants.

(c) Medication shall be kept under acceptable conditions of sanitation, temperature, light, moisture, and ventilation according to the requirements of each medication. Medication that requires refrigeration shall be stored in a separate locked compartment or container that is properly labeled, stored separately from food items, and kept inaccessible to children.

(d) Medication for internal consumption shall be stored separately from medication for external application.

(e) Within 72 hours of the medication's expiration date, the date the medication is no longer in use by the resident for whom the medication was prescribed or purchased, or the date the resident is discharged, unused medication shall be returned to a parent, guardian, or legal custodian of the resident, for removal from the group home or shall be destroyed by the group home manager or returned to the prescribing pharmacy to be destroyed.

(f) The group home shall maintain a log of medication destroyed. The information logged shall be written in ink and shall include the amount of medication destroyed, the name of the staff member who destroyed the medication, and the name of the resident to whom the medication belongs. Whenever medication is released to a resident's parent, guardian or legal custodian, that information, including the name of the person receiving the medication, shall be documented in the resident's record.

(g) The group home shall contact the local police to destroy the medications or contact the Division Officer at the U.S. Drug Enforcement Agency (DEA) for instructions for destroying controlled substances.

Note: The address and phone number for the U.S. Drug Enforcement Agency is 1000 North Water Street, Milwaukee, WI 53202, or call (414) 297-3395, extension 5300.

(7) PSYCHOTROPIC MEDICATION. (a) *Definitions.* In this subsection, "psychotropic medication" means any drug that affects the mind and is used to manage inappropriate resident behavior or psychiatric symptoms and may include an anti-psychotic, an antidepressant, lithium carbonate or a tranquilizer.

(b) *Rights of patients.* A group home shall comply with the provisions of s. 51.61 (1) (g) and (h), Stats., for each resident who is prescribed psychotropic medication.

(c) *Non-emergency procedures.* A group home serving a resident for whom psychotropic medication is newly prescribed shall ensure that all of the following requirements are met:

1. A medical evaluation of the resident is completed by a physician detailing the reason for the type of psychotropic medication prescribed. The evaluation or screening shall be documented in the resident's record within the first 45 days after the resident has first received a psychotropic medication. Subsequent evaluations of the resident related to the administration of psychotropic medications shall be completed as recommended by the prescribing physician and the results documented in the resident's record.

2. The resident, if 14 years of age or older, and a parent, or guardian of the resident, have signed written consent forms as required under s. HFS 94.03, unless psychotropic medications are administered per court order. If the medication is administered per court order, there shall be a copy of the order in the resident's record.

3. All group home staff understand the potential benefits and side effects of the medication and have received information relating to contraindicated medications.

(d) *Emergency procedures.* For emergency administration of a psychotropic medication to a resident, a group home shall do all of the following:

1. Have authorization from a physician.

2. Whenever feasible, obtain written informed consent from a parent, or guardian, and the resident, if the resident is 14 years old or older, before using the medication unless the medication is administered per court order.

3. Comply with the group home's emergency medical procedures.

4. If written informed consent of a parent or guardian of a the resident was not obtained before administration of the medication notify the parent or guardian by phone as soon as possible following emergency administration and document the dates, times, and persons notified in the resident's treatment record.

5. Document the physician's reasons for ordering emergency administration of psychotropic medication in the resident's treatment record.

(e) *Revocation of consent or refusal to take.* 1. A resident's parent or guardian may revoke consent for non-emergency use of psychotropic medications at any time, as provided under s. HFS 94.03.

2. When a consent is revoked, the group home shall do all of the following:

a. Administer the medication pursuant to a court order or as prescribed by a physician to avoid serious physical harm to the resident or others.

b. Inform the prescribing physician and the placing person or agency of the consent revocation and document the revocation in the resident's treatment record.

3. When a resident refuses to take a prescribed psychotropic medication, the group home shall do all of the following:

a. Document the resident's reasons for refusal in the resident's treatment record.

b. Notify the resident's physician, the parent or guardian or legal custodian and the resident's placing person or agency. Notification shall be immediate if the resident's refusal threatens the resident's well-being and safety.

(f) *Administration standards.* In administering psychotropic medication, a group home shall comply with requirements for administration of prescription medication in this section and clinically acceptable standards for good medical practice. Conformance to guidelines of the department's division of disability and elder services for use and monitoring of the effects of psychotropic medications satisfies the requirement for clinically acceptable standards and for good medical practice.

Note: For a copy of the guidelines for use and monitoring of psychotropic medications, write: Bureau of Regulation and Licensing, P.O. Box 8916, Madison, WI 53708.

HFS 57.26 Dental care. Within 30 days after admission to a group home, each resident over the age of 3 years old who is admitted to the group home for other than respite care shall receive a dental examination unless an examination has been performed within 6 months before the resident's admission. Subsequent dental examinations shall occur at intervals not exceeding 6 months after the last examination or completion of treatment.

HFS 57.27 Behavior intervention. (1) PROHIBITED MEASURES. No licensee, staff member, or volunteer may do any of the following:

(a) Hit, shake, pinch, push, twist or use any other means that the staff member or volunteer knows or should know may inflict mental or physical harm or actions that may be psychologically, emotionally or physically painful to a resident.

(b) Verbally abuse a resident or use profanity, or any language that the staff member or volunteer knows or should know may ridicule a resident.

(c) Lock a resident in a room or any other place.

(d) Use any item to cover a resident's head or face or wrap the resident's body with sheets, blankets, or any other material.

(e) Require a resident to march, stand, kneel, or assume and remain in any fixed position or assign work that is not therapeutic and not a part of the resident's treatment plan.

(f) Release any noxious, toxic or otherwise unpleasant substances near the eyes or face of a resident.

(g) Authorize, direct or ask a resident to discipline another resident.

(h) Discipline one resident for the behavior or action of another resident.

(i) Employ any measure that the staff member or volunteer knows or should know is aversive, cruel, humiliating or that may be psychologically, emotionally, or physically painful, discomforting, dangerous, or potentially injurious to a resident.

(2) TIME-OUTS. (a) As used in this subsection, "time-out" means a behavior intervention technique that involves brief periods of physical separation of a resident from others.

(b) A time-out may not be used for the convenience of staff members or volunteers, as a substitute for supervision of a resident, or for a child under 3 years old.

(c) Areas used for time-outs shall be free of objects with which a resident could self-inflict bodily harm, shall provide a staff view of the resident at all times and shall be equipped with adequate ventilation and lighting.

(d) The use of time-outs shall be appropriate to the developmental level and the age of the resident and may not be for a period longer than the period of time necessary for the resident to regain control. The maximum length of time that a resident may be in a time-out on each occurrence of a time-out is as follows:

1. For a child 3 through 6 years of age, a time-out may not exceed 10 minutes.

2. For a child 7 through 10 years of age, a time-out may not exceed 15 minutes.

3. For a child over 11 years of age, a time-out may not exceed 30 minutes. The need for continued use of a time-out shall be reviewed at least every 10 minutes and documented in the resident's record.

(e) A resident that is in a time-out shall be permitted use of the toilet if requested.

(f) Any resident that is in a time-out shall be within hearing of a staff member.

(g) Within 12 hours of occurrence, there shall be documentation in the resident's record of each time-out, including the name of each staff member involved, the length of the time-out, and rationale for use.

(3) USE OF RESTRAINTS (a) *Definitions.* As used in this subsection:

1. "Mechanical restraint" means any physical device or equipment that restricts the movement of an individual or a portion of the individual's body.
2. "Physical restraint" means any action or physical contact that immobilizes or reduces the ability of an individual to move any part of his or her body.
3. "Prone restraint" means placing an individual in a face down position on the floor.

(b) *Limitations.* 1. A physical restraint shall be used only to ensure the immediate physical safety of the resident, a staff member, or others and only as a last resort. Efforts to de-escalate the situation must be made or proven ineffective before a physical restraint may be utilized. At least two staff members shall be present during the use of a physical restraint, except in a life-threatening situation.

2. If a physical restraint is used, the restraint shall be applied with the minimum amount of force and in the least restrictive manner necessary to control the resident's behavior.

3. No restraint may be used to coerce, discipline, or to retaliate against a resident.

4. A restraint or action that is contraindicated by a prescribed medication regimen or that interferes with or may interfere with or restrict a resident's breathing, circulation, or cardiac activity may not be used. The use of mechanical and prone restraints is not permitted.

5. The use of a physical restraint shall cease as soon as the danger of harm has been averted and the resident has gained control.

6 A physical restraint may only be used by staff members who have received training by recognized or qualified crisis intervention experts in verbal and physical crisis intervention techniques, de-escalation techniques, recognizing signs of distress and in the application and use of physical restraints. Staff shall receive updates of such training at least annually.

7. After an episode of physical restraint, a de-briefing shall take place with the resident and staff that were involved in the physical restraint.

(c) *Documentation and reporting.* Each staff member who uses a physical restraint or who witnesses the use of a physical restraint shall, within 24 hours of each incident, give the group home manager a written description of the incident. The group home manager shall document each incident, including date, time and a description of the circumstances of the incident in a log book and report the incident to the regional licensing office that serves the group home and the placing agency as required under s. HFS 57.13 (1) (c) and (5). Entries shall be made in ink. Each description shall include all of the following:

1. The name, age, and sex of each resident involved.

2. The date, time, and location of the incident.
3. The name and job title of each staff member involved in the restraint and each staff member or volunteer who witnessed the use of the restraint.
4. Circumstances leading up to the use of restraint, the behavior that prompted the restraint, efforts made to de-escalate the situation and the alternatives to restraint that were attempted.
5. A description of the administration of the restraint, including the holds used and the reasons such holds were necessary.
6. The beginning and ending time of the restraint and how the restraint ended.
7. Behavior of the resident during and after the use of the restraint.
8. Any injuries sustained by a resident or staff member and any medical care provided, including the name and title of the person providing the care.
9. Any follow-up debriefing provided to residents and staff.

HFS 57.28 Clothing. (1) The licensee shall ensure that funds allocated by the placing agency for the purchase of clothing for residents are used in such a manner that residents are provided with clothing that is individually selected and fitted, appropriate to the season, and comparable to that of others in the community.

(2) Whenever possible, each resident shall be given an opportunity to participate in the selection and purchase of his or her clothing.

(3) Each resident's clothing shall be regularly laundered and in good repair.

(4) Clothing purchased for a resident shall be the property of that resident. The group home shall keep a log in each resident's record of clothing purchases.

HFS 57.29 Hygiene. Each resident shall be provided with sufficient amounts of individually dispensed soap, clean towels, toilet paper, toothpaste, shampoo, deodorant, and other personal hygiene products that are gender specific to the resident population.

HFS 57.30 Household duties. (1) Residents shall have opportunities to share in responsibility for household duties or chores appropriate to the resident's age, developmental level, health, and ability.

(2) Household duties of residents may not interfere with school attendance, family visits, sleep, study, or religious practice and may not violate the principles of nurturing care described in s. HFS 57.205.

HFS 57.305 Spending money. (1) Each resident shall be given a regular, base amount of spending money appropriate to his or her age and maturity. Older residents can be given opportunities to earn extra money above and beyond the base allowance.

(2) A resident's spending money may not be withheld as a disciplinary action.

HFS 57.31 Food and nutrition. (1) Food shall be available and provided to residents in sufficient quantities and varieties, and shall provide for nutritional and dietary needs. Food or modified diets ordered by a physician shall be provided for those residents who have special needs. In planning menus, the religious practices and cultural patterns of the residents shall be considered and foods offered accordingly. Menus shall meet the minimum nutritional requirements as found in Appendix B.

(2) At no time shall food be withheld from a resident.

(3) Daily menus shall be written, kept on file and available for at least 30 days after meals have been served.

(4) Spoiled or deteriorated food shall be disposed of immediately.

(5) Prepared food shall be covered and stored at temperatures that protect against spoilage. Dry foods shall be dated and stored in rigid, covered containers or single use food storage plastic bags with a zip top closure. Food in dented, bulging or leaking cans, or in cans without labels, may not be used.

(6) Leftover food that is not served shall be marked with the date of preparation and refrigerated or frozen immediately for later use.

HFS 57.32 Education. (1) School age residents shall be enrolled in school as soon as possible after admission to the group home. The licensee shall ensure that each resident meets the school attendance requirements under chs.115 and 118 Stats., unless otherwise excused by school officials.

(2) A group home may not provide a home-based private educational program to residents unless the program is approved by the department of public instruction as a private school under s. 118.165, Stats.

HFS 57.33 Sleeping arrangements. (1) Each resident shall be provided with a separate bed. A child of a custodial parent who resides in the group home shall also have his or her own crib, bed, or bassinet as appropriate for the needs of the child and may not routinely share a bed with his or her parent.

(2) A resident who is 18 years of age or older may not share a bedroom with a resident who is under 18 years of age.

(3) No resident may share a bedroom with a licensee, staff member, volunteer, household member, or with a visitor to the premises.

(4) Male and female residents may not share the same bedroom.

(5) No more than 4 residents shall occupy any bedroom. For a group home initially licensed after the effective date of this chapter, [revisor to insert effective date] no more than 2 residents shall occupy a bedroom.

(6) A room that others must pass through to get to another part of the group home shall not be used as a bedroom for a resident.

(7) Regular sleeping provisions for residents may not be in any building, apartment, or other structure that is separate from the group home structure or in an unfinished attic, unfinished basement, in a hall or in any other room that is not typically used for sleeping purposes. No household member may be permitted to regularly sleep in any of these areas in order to accommodate a resident.

HFS 57.34 Non-ambulatory residents. The licensee shall ensure that non-ambulatory residents receive care and services according to that resident's treatment plan.

HFS 57.35 Additional requirements for group homes providing respite care. (1) **APPLICABILITY.** If a group home is licensed under s. HFS 57.51 or approved under s. HFS 57.515 to provide respite care, the licensee shall meet the additional requirements of this section.

(2) **STAFF.** (a) Each staff member who provides care for a respite care resident shall have training or work experience related to any specific condition or need of the resident for whom care is provided. Staff members with no previous training or experience working with the specific condition or need of a respite care resident shall receive at least 8 hours of supervised experience or more if necessary to provide competent care.

(b) The group home shall designate by name or position a staff member who will have primary responsibility for oversight of respite care residents.

(3) **PROGRAM STATEMENT AND POLICIES.** The program statement required under s. HFS 57.05 (1), shall address the purpose for which respite care is provided, compatibility of children with diverse needs and how the respite care program relates to other program components of the group home. The policies and procedures established under s. HFS 57.05 (2), shall include procedures on assessing the medical and dietary needs and behavioral and emotional concerns of a child admitted to the group home for respite care.

HFS 57.36 Additional requirements for group homes providing care for custodial parents and expectant mothers.

(1) **APPLICABILITY.** If a licensee is licensed under s. HFS 57.51 or approved under s. HFS 57.515 to provide care to custodial parents or expectant mothers, the licensee shall meet the additional requirements of this section.

(2) **TREATMENT PLANNING.** The treatment plan developed under s. HFS 57.23 shall include goals and approaches for all of the following:

(a) *Parenting skills.* Parenting skills instruction that includes all of the following:

1. Prenatal and other health care services.
2. Child development.
3. Bathing and hygiene.
4. Child safety.

5. Child guidance and behavior management.

6. Domestic violence issues, sudden infant death syndrome, shaken baby syndrome, and mental health and alcohol and other drug abuse counseling as appropriate.

7. Nutrition and meal preparation.

8. Childcare options.

(b) *Life skills*. Life skills instruction that includes all of the following:

1. Family planning and relationships.

2. Independent living skills, economic self-sufficiency, budgeting and job skills.

3. Accessing community resources, transportation, and transitional housing.

(3) **MEDICAL CARE FOR EXPECTANT MOTHERS**. An expectant mother shall be provided prenatal and postnatal care from a physician or a nurse-midwife licensed under s. 441.15 (3), Stats. The licensee shall ensure that the expectant mother gives birth in a medical facility.

(4) **HEALTH SAFETY AND WELFARE OF CHILDREN OF RESIDENTS**. The licensee shall ensure the health, safety, and welfare of the children of residents and provide care to those children in compliance with this chapter.

(5) **CHILD CARE FOR CHILDREN OF CUSTODIAL PARENT**. (a) If the resident is not on the premises or is otherwise unable to care for his or her child, childcare may be provided on the premises only as follows:

1. The staff to child ratio may not be less than that specified in Table HFS 57.36. If care is provided to a mixed-age group of children, the staff-to-child ratio in Table HFS 57.36 shall be adjusted on a pro-rata basis pursuant to Appendix D.

| TABLE HFS 57.36 | |
|--------------------|-----------------------------------------------------------|
| Age of Children | Minimum Number of Staff Members or Volunteers to Children |
| Birth to 2 Years | 1:4 |
| 2 Yrs. to 2½ Yrs. | 1:6 |
| 2 ½ Yrs. to 3 Yrs. | 1:8 |
| 3 Yrs. to 4 Yrs. | 1:10 |
| 4 Yrs. to 5 Yrs. | 1:13 |
| 5 Yrs. to 6 Yrs. | 1:17 |
| 6 Yrs. and Over | 1:18 |

2. The staff member or volunteer used to meet staff to child ratios as defined in subd. 1. shall have completed the training requirements as set forth under s. HFS 57.37 (4).

3. If childcare is provided for payment, reimbursement or other compensation to 4 or more children under 7 years of age, the child care program must be licensed under chs. HFS 45 or HFS 46.

(b) Childcare may be provided off premises only by a child care provider that is licensed or certified under ch. HFS 45, HFS 46, or DWD 55, as applicable.

(6) NON-CUSTODIAL PARENTS. The licensee shall give children of residents the opportunity and encouragement to maintain involvement with non-custodial parents.

(7) SPACE REQUIREMENTS. In addition to the floor space required for bedrooms under s. HFS 57.40 (6) (b) 3., there shall be at least 35 square feet of additional floor space in a bedroom for each child sharing a bedroom with a parent.

(8) WATER SUPPLY. The annual test of private well water under s. HFS 57.40 (3) (a) 2. shall include testing for nitrate levels. If nitrate levels are determined to be over 10 milligrams per liter, the licensee shall give notice to the regional licensing office that serves the group home within 48 hours.

HFS 57.37 Additional requirements for care of children 6 years of age or younger

(1) APPLICABILITY. If a group home is licensed under s. HFS 57.51 or approved under s. HFS 57.515 to admit children under 6 years of age as residents or if the group home provides care to a resident who is the custodial parent of a child under the age of 6, the group home shall meet the additional requirements of this section.

(2) DEFINITIONS. In this section:

(a) "Infant" means a child under one year of age.

(b) "Toddler" means a child at least one year of age but less than 2 years of age.

(c) "SIDS" means Sudden Infant Death Syndrome.

(3) TREATMENT PLAN. A treatment plan is not required for children of residents. The treatment plan developed under s. HFS 57.23 (2) for a resident under 6 years of age shall include:

(a) Schedule of meals and feeding and types of food introduced.

(b) Toileting and diapering procedures.

(c) Sleep and nap schedule.

(d) Communication methods and comforting techniques.

(e) Developmental history.

(f) Medical history and medication management.

(4) STAFF TRAINING. Each staff member who provides care to a child under this section shall successfully complete at least 10 hours of training in infant and toddler care; at least 40 hours or 3 credits of early childhood training and training in infant and child CPR within 6 months after beginning employment, unless the staff member has previously received such training and certification is current. The training in infant and toddler care shall include instruction on SIDS risk reduction and shall be approved by the department.

(5) DIAPERING. Wet or soiled diapers and clothing shall be changed promptly. Each child shall be changed on a surface that is cleaned with soap and water and a disinfectant solution after each use. Soiled diapers shall be placed in a plastic-lined, covered container, which shall be emptied, washed and disinfected daily.

(6) FURNISHINGS AND BEDDING. (a) Each child shall be provided with a bassinet, crib, or bed that is safe and appropriate to the needs of the child. Cribs shall have crib slats that are securely fastened in place and are spaced no more than 2 3/8 inches apart. Crib mattresses shall fit snugly. Bassinets and cribs shall be washed and disinfected between changes in occupancy. The top bunk of a bunk bed shall not be used for a child under 4 years of age. The top bunk shall have a safety rail if occupied by a child under 8 years of age.

(b) Pillows and sheepskins shall not be used with infants.

(c) The group home shall provide eating utensils and cups, infant seats, high chairs, car seats, strollers, rocking chairs, tables and seating and other furnishings and equipment appropriate for size and developmental level and the needs of children under 6 years of age.

(7) SAFETY MEASURES. (a) Strings and cords long enough to encircle a child's neck shall not be accessible to children.

(b) When infants and toddlers are present, open stairways shall be protected at the top and bottom with child safety gates. Gates shall have latching devices that adults can open easily in an emergency. Pressure gates or accordion gates shall not be used.

(c) Steam radiators, fireplaces, wood-burning stoves, electric fans, electric outlets, electric heating units and hot surfaces, such as pipes, shall be protected by screens or guards.

(d) Differences of elevation, including platforms, walkways, balconies and open sides of stairways shall be protected by railing at least 36 inches in height and with bars no greater than 4 inches apart.

(8) WATER. If an infant under 6 months old is in care, the annual test of private well water required under s. HFS 57.40 (3) (a) 2., shall include testing for nitrate levels. If nitrate levels are determined to be over 10 milligrams per liter, the licensee shall give notice to the regional licensing office that serves the group home within 48 hours.

(9) NUTRITION AND FEEDING. (a) Food shall be available to infants and toddlers in accordance with the meal patterns consistent with those specified in Appendices B and C, as applicable.

(b) If a microwave is used to heat or prepare food, procedures for heating and cooking infant formula, milk, or food in a microwave oven shall be posted near the microwave.

(c) Bottles shall not be propped. A child unable to hold a bottle shall be held whenever a bottle is given.

(d) Infants and toddlers shall not be put to bed with a bottle.

(10) MEDICAL CARE. Each child shall receive routine physical examinations and immunizations pursuant to s. 252.04, Stats., and ch. HFS 144, by a licensed medical professional.

(11) TRANSPORTATION. Whenever a child who is under 4 years of age or whose weight is 40 pounds or less is transported in a vehicle, the child shall be restrained in a car safety seat in accordance with the manufacturer's recommendations.

HFS 57.38 Resident Records. (1) The licensee shall maintain on the premises a record for each current resident. Each record shall contain all of the following information:

(a) Resident's first name, last name, and alias, if any, date of birth, and gender.

(b) Recent photograph of the resident.

(c) Voluntary placement agreement or court order or both as appropriate.

(d) Referral information such as court reports and assessments from the placing agency.

(e) Name, address and telephone number of the placing agency, parent, guardian, or legal custodian that is responsible for the resident.

(f) Name, address, and telephone number of the person or placing agency and physician to be called in an emergency.

(g) If the group home is a family-operated group home, a completed form CFS-872A, Information for Foster Parents -Part A and a completed form CFS-872B, Information for Foster Parents -Part B.

Note: Form CFS 872A, Information for Foster Parents -Part A and form CFS 872B, Information for Foster Parents -Part B can be found on the department's website at dhfs.wisconsin.gov/forms/index.htm or by telephoning any regional field office listed in Appendix A.

(h) Treatment plan and reviews and post-discharge plan.

(i) Current medical information including all of the following:

1. Medical consent and signed releases.

2. Name of physician and dentist.

3. Dates of medical and dental examinations and recommendations for follow-up care.

4. Immunizations.

5. Illnesses and accidents and dates of each.

6. Medications and treatments received and dates of each.

7. Allergies, including allergies to food or medication.

8. Physical limitations.

(j) Name of school and current grade.

(k) Religious preference.

(L) Incident reports involving the resident for whom the record was made.

(m) Description of any resident rights that are denied or limited and disposition of any grievances.

(n) Inventory of the resident's clothing and other possessions.

(o) Non-medical signed releases and consents.

(p) Discharge summary.

(q) Any other information as appropriate.

(2) Resident records shall be maintained in a secure location pursuant to the confidentiality requirements in s. HFS 57.39. The record required in sub. (1) shall be maintained by the licensee until the resident reaches the age of 19 or 7 years after the resident is discharged from the group home, whichever is later. The record of a resident that has been discharged may be stored off the premises, but must be made available to the department upon request.

HFS 57.39 Confidentiality. Information and records on residents shall be kept confidential and shall be protected from unauthorized examination pursuant to s. 48.78 and 48.981 (7), Stats., or where applicable s. 51.30 (4), Stats., and ch. HFS 92.

SUBCHAPTER V PHYSICAL ENVIRONMENT AND SAFETY

HFS 57.40 Physical plant and environment. (1) (a) GENERAL REQUIREMENTS. In addition to maintaining the premises in compliance with state and local building code requirements, the licensee shall maintain the premises in a state of good repair and in a clean, safe and sanitary condition.

(b) The department may require a licensee to obtain an inspection of the premises and of the heating, electrical, plumbing, water and sewage systems to determine if any safety or health problems exist.

(2) EXITS. (a) Halls leading to exits shall be clear and unobstructed at all times. At least one exit door shall be at least 3 feet in width.

(b) All stairways serving 3 or more levels shall have a door at either the bottom or top of the stairway which shall be kept closed at all times.

(c) 1. Habitable rooms on the second floor shall have access to at least 2 exits. At least one of the exits shall be a stairway to the first floor or to grade.

2. If a child 6 years of age or over occupies a room on the second floor a window may be used as an exit if the window can be opened from the inside without the use of tools, is at least 22 inches in the smallest dimension, is at least 5 square feet in area, and has a lower sill not more than 4 feet from the floor and a window escape ladder for use in an emergency evacuation.

3. If a child under 6 years of age occupies a room on the second floor, the second exit may be an additional stairway to the first floor or grade or an exit to a balcony that is not more than 15 feet above grade with a floor that measures at least 3 feet by 3 feet and a rail that is not more than 36 inches high.

(d) Habitable rooms above the second floor shall have at least 2 exits that are both stairways to the second floor or to grade or that are to one stairway to the second floor and one stairway to grade. Windows and balconies may not be designated as exits.

(e) Habitable rooms below grade shall have at least 2 exits. At least one exit shall be a stairway to grade or a door that is below grade level that leads to grade level by an outdoor stairway. The second exit may be either a stairway leading to a first floor above grade or a window that meets the requirements in par. (c)2.

(3) WATER AND SEWER. (a) *Water supply*. 1. The group home shall have an adequate and safe water supply.

2. If the group home's water supply is from a private well, the well shall be approved by the department of natural resources. Water samples from an approved well shall be tested at least annually for lead and bacteria by a laboratory certified under ch. HSS 165. If the group home population includes children under 6 years old or expectant mothers the water shall be tested as required in ss. HFS 57.36 (8) or 57.37 (8), as applicable.

(b) *Sewage*. The group home shall have an adequate sewage disposal system. If the group home has a private sewage disposal system, the system shall be approved by the appropriate governmental approving authority.

(c) *Water temperature*. The group home shall be equipped with a water heater sufficient to meet the needs of all residents. The hot water delivered to the group home's sinks, tubs, and showers shall not exceed 110 degrees Fahrenheit.

(4) HEATING, COOLING AND VENTILATION. (a) The group home shall be equipped with a heating system that is capable of maintaining a temperature of at least 68 degrees Fahrenheit.

(b) All rooms, including bedrooms must be provided with adequate heating, cooling and ventilation.

(c) If the temperature inside the group home exceeds 80 degrees Fahrenheit during summer months, the licensee shall provide for air circulation with fans or by other means.

(d) The heating unit shall be maintained in a safe condition as determined by an annual inspection by an individual professionally qualified to conduct such inspections.

(e) Portable space heaters shall not be used.

(f) Bath and toilet rooms shall have either a window that opens or be equipped with exhaust ventilation to the outside.

(5) LIGHTING. All habitable rooms shall have electric lighting sufficient to meet the needs of the group home and its residents.

(6) SPACE REQUIREMENTS. There shall be at least 200 square feet of living space for each resident of the home. "Living space" includes any area that is used by a resident in daily living and excludes unfinished basement, attic, attached garage or similar areas, not usually occupied by a resident in daily living. The licensee shall ensure compliance with all of the following space requirements:

(a) *Bathroom requirements.* 1. Bathrooms shall be indoors.

2. A group home serving only males or only females shall have at least one full bathroom that contains a toilet, sink, and a tub or shower available for use by residents. A group home initially licensed on or after the effective date of this chapter (revisor to insert effective date), serving males and females shall have 2 full bathrooms that are gender specific, each containing a toilet, sink and a tub or shower, unless the department grants an exception under s. HFS 57.02.

3. A bathroom that can be accessed only through a room used as a bedroom may not be counted as being available for use by residents who do not occupy that bedroom.

4. If the total number of residents and children of residents over the age of 2 years exceeds 10, there shall be 2 full bathrooms.

(b) *Bedroom requirements.* 1. Each bedroom shall have a door that allows for privacy and a window that allows natural light to enter.

2. At least one wall of each room used as a bedroom by a resident shall be an outside wall.

3. For group homes licensed before the effective date of this rule, the floor space of each bedroom shall be as follows:

a. A bedroom that is used by one resident shall have at least 55 square feet of floor space.

b. A bedroom that is occupied by 2 residents shall have at least 50 square feet of floor space for each resident.

c. A bedroom that is occupied by 3 or more residents shall have at least 45 square feet of floor space for each resident.

d. A bedroom that is occupied by a custodial parent and that parent's child or children shall have the additional square footage required in s. HFS 57.36 (7).

4. For a group home that is licensed after the effective date of this rule, [revisor to insert effective date] all of the following shall apply:

a. A bedroom that is used by one resident shall have at least 80 square feet of floor space. If the resident is non-ambulatory or uses adaptive devices for ambulating, the bedroom shall have at least 100 square feet of floor space.

b. A bedroom that is used by more than one resident shall have a minimum of 60 square feet of floor space for each resident. If either or both of the residents are non-ambulatory or uses adaptive devices for ambulation, the bedroom shall have at least 80 square feet of floor space for each resident.

5. The minimum space between beds, cribs, and bassinets shall be at least 2 feet. There shall be at least 5 feet of space between bunk beds. The top deck of a bunk bed shall be at least 3 feet below the lowest point of the ceiling and there shall be at least 3 feet between upper and lower bunks.

(c) *Dining areas.* Dining areas shall be of sufficient size to permit all residents and staff to sit down for meals at one time.

(d) *Kitchen.* 1. The kitchen shall be equipped with a stove, refrigerator, cooking and eating utensils, and any other appliance or utensil that may be required to meet the needs of each resident.

2. Each refrigerator and freezer shall be equipped with a clearly visible, accurate thermometer. Refrigerators shall be maintained at 40 degrees Fahrenheit or lower. Freezers shall be maintained at 0 degrees Fahrenheit or lower.

(e) *Storage space.* A group home shall have storage space to accommodate clothing and other personal items of each resident of the group home.

(f) *Study areas.* There shall be a quiet area in the group home suitable for study.

(g) *Laundry.* Laundry facilities shall be available to meet the needs of all residents. Any laundry equipment in the group home shall be installed and vented in accordance with the manufacturer's recommendations.

HFS 57.41 General safety precautions. (1) Windows and doors that are used for ventilation shall be properly screened.

(2) Electrical systems and appliances shall be in good repair and properly protected.

(3) Tubs and showers shall have safety strips or other non-slip surfaces applied to prevent slipping.

(4) Group homes constructed on or after the effective date of this chapter (revisor to insert effective date) shall provide ground fault outlets for any electrical outlet within 6 feet of a water source in bathrooms, kitchens, laundry rooms, basements, in the garage and on the exterior of the group home.

(5) Staff members and volunteers shall use universal precautions when exposed to blood and blood containing body fluids and tissue discharges.

(6) The indoor and outdoor premises shall be free of hazards.

(7) There shall be no flaking or deteriorating paint on exterior or interior surfaces.

(8) No lead based paint or other toxic finishing material may be used on the premises of the group home.

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

(10) Stairs shall have a non-slip surface.

(11) Exterior stairs, walks, ramps and porches shall be maintained in a safe condition and free from the accumulation of water, ice, or snow.

(12) Dangerous equipment and harmful substances unnecessary for the operation of the group home may not be kept on the premises. All necessary but potentially dangerous equipment, toxic substances and medications shall be kept inaccessible to residents.

HFS 57.42 Fire safety. (1) SMOKE DETECTION (a) Each group home shall have a smoke detection system. The system shall be an electrically interconnected system listed by Underwriter's Laboratory or a radio signal-emitting system which has at least one centrally mounted alarm horn which, when activated can be heard throughout the premises.

(b) A smoke detector shall be located at each of the following locations in the home:

1. Head of every open stairway.
2. Next to doors leading to every enclosed stairway on each floor level.
3. Every hall. Smoke detectors located in a hall shall not be spaced more than 30 feet apart nor more than 15 feet from any wall.

4. Common use rooms, including living rooms, dining areas, lounges, family rooms and recreation rooms, except the kitchen.

5. Bedrooms.

6. Basement.

7. Attic, if accessible.

(c) The smoke detection system shall be tested at least monthly and results

documented and kept on file at the group home.

(d) A smoke detector that is located in a room used as a bedroom may be battery operated, free-standing and separate from the interconnected system.

(2) FIRE EVACUATION. (a) There shall be a diagrammatic floor plan of the group home posted on each floor level of the group home clearly indicating the direction of each exit for emergency evacuation.

(b) Evacuation drills shall be conducted with residents at least monthly and documented, including the date and time of the drill, the evacuation time and any problems encountered during the drill. An evacuation drill shall be conducted during sleeping hours, or which, simulates sleeping hours at least once every 6 months.

(c) Staff members shall personally evacuate each resident with limited mobility or having limited understanding regarding evacuation procedures from the group home. If the group home population includes a hearing impaired resident, there shall be written procedures specifying that a staff member shall immediately alert the resident in case of fire.

(3) FIRE EXTINGUISHERS. (a) Each group home shall have a fire extinguisher in the size, type, and location specified by the local fire department. At least one fire extinguisher shall be located in the kitchen and on each floor level of the group home.

(b) Each extinguisher shall be operable at all times, inspected at least once a year by a qualified fire safety expert and have a label indicating its present condition and date of its last inspection.

(4) FIRE SAFETY INSPECTION. The licensee shall have an annual fire safety inspection. The results of the inspection shall be reported to the regional licensing office that serves the group home as required under s. HFS 57.13 (9).

HFS 57.43 Furnishings and appliances. (1) The living space shall be sufficiently furnished and in a good state of repair, maintained in a clean condition, and shall allow for free and informal use by residents.

(2) Each bed shall be of such size as to ensure comfort of the resident. Each bed shall have suitable springs in good condition, a clean, comfortable mattress that is covered with a mattress pad and a waterproof covering when necessary, a pillow, at least 2 sheets, a bedspread, and blankets adequate for the season.

(3) The top bunk of a bunk bed shall not be used by residents with conditions limiting mobility and shall have a safety rail if used by a child under 8 years of age.

(4) Triple-deck bunk beds shall not be used.

HFS 57.44 Sanitation. (1) All garbage containing food waste shall be kept in covered, non-combustible watertight containers. Garbage shall be removed from the group home daily.

(2) Dishes, silverware, and utensils shall be maintained and stored in a clean and sanitary manner. Eating and drinking utensils shall be thoroughly cleaned with detergent and hot water and rinsed after each use.

(3) Single service dinnerware and utensils shall not be used at meals on a regular basis and may not be re-used.

(4) All bed linens shall be changed at least once a week or more often if necessary.

SUBCHAPTER VI LICENSING AND ENFORCEMENT

HFS 57.45 Group home location. (1) A person who operates a group home shall be licensed by the department pursuant to this chapter and s. 48.625, Stats. Only one group home license may be issued for any one location.

(2) For each location proposed for licensure by an applicant in sub. (1), the individual, corporation, or agency as applicable shall make a good faith effort to establish and maintain a community advisory committee as specified in s. 48.68 (4), Stats.

HFS 57.46 Other licenses and uses. Upon licensure, a licensee may not accept any other license, including a child welfare or child care license, perform a service, or conduct a business on the premises, or combine group home activities with any service or business owned or operated by the licensee without the written approval of the department.

HFS 57.47 Group home capacity limits. The combined total of the number of residents residing in a family-operated group home and the number of children of the licensee shall not exceed 10.

57.48 General conditions for approval of application. (1) Any person licensed to operate a group home shall be a responsible, mature individual who is fit and qualified.

Note: The term "fit and qualified" is defined in s. HFS 57.04 (15) to mean displaying the capacity to successfully nurture and care for children and shall not include a history of a civil action, criminal conviction or administrative rule violation that substantially relates to the care of a child; a history of exercising unsound judgement; or abuse of alcohol or drugs. For help in determining whether a civil action, criminal conviction, or administrative rule violation substantially relates to the care of children consult s. HFS 12.06.

(1m) In determining whether an applicant is fit and qualified, the department may consider any of the circumstances in ss. HFS 57.50 (1), 57.56 (1), and 57.57 (1) (a) by an owner, agent, staff member, household member, or other individual directly or indirectly participating in the operation of the group home.

(2) If the department has reason to believe that the physical health or mental health of an applicant, licensee, or household member may endanger a resident, the department may issue a denial or revocation of the license or may require that a written statement be submitted by a physician, or if appropriate, by a licensed mental health professional that certifies the condition of the individual and the possible effect of that condition on the group home or the residents in care.

HFS 57.49 License application. (1) Except as provided in sub. (3), a person who wishes to operate a group home shall submit to the department an application signed as specified in sub. (2) at least 60 days before the date proposed to begin operating the group

home. The application shall be made on the department's form CFS 375 and shall be accompanied by all of the following:

(a) The license fee required under s. 48.625 (2) (a), Stats.

(b) A completed HFS 64 background information disclosure form which shall be completed and signed as follows:

1. If the applicant is one or more individuals, a background information disclosure form shall be completed and signed by each individual applicant and each household member who is 10 years old or older.

2. If the applicant is a corporation or an agency, a HFS 64 background information disclosure form shall be completed and signed by an authorized representative.

(c) Inspection reports verifying that the proposed group home's physical structure, electrical, heating and plumbing systems have been inspected and are in safe operating condition according to applicable industry standards.

(d) Documentation of efforts to establish and maintain the community advisory committee as required under s. HFS 57.45 (2).

(e) Payment of any forfeitures, fees, assessments related to any licenses issued by the Department to the applicant, or a written statement signed by an authorized representative stating that no fees, forfeitures, assessments are owed.

(f) Proof of the insurance required under s. HFS 57.08.

(g) A copy of the personnel policies required under s. HFS 57.17 (1) and any revisions as appropriate.

(h) A copy of the group home's policies and procedures required under s. HFS 57.05.

(i) If the applicant for licensure is a corporation, proof of incorporation or authorization to do business in Wisconsin, as required under s. HFS 57.52.

(j) Any other information requested by the department.

Note: A copy of the application form CFS 375 may be requested in writing or by phone from the appropriate regional licensing office listed in Appendix A. The completed application and license fee should be returned to the regional office from which the application was received.

(2) If an applicant for licensure is an agency or corporation, an authorized representative of the agency or corporation as applicable shall sign the application. If the applicant for licensure is one or more individuals, the application shall be signed by each individual.

(3) A licensee applying for a license for an additional group home location shall be in compliance with this chapter in the operation of the existing group home and in compliance with regulations for any other facility licensed by the department and operated by the licensee. Any

forfeitures due under s. 48.715, Stats., on other facilities licensed by the department shall be paid before the issuance of an additional license.

(4) Except as provided in s. HFS 57.50 (3), the department may not process an application for a license from a person who is prohibited from licensure under s. HFS 57.50 or who meets the conditions under s. 48.715 (5), Stats., if the applicant has had a license or certification to operate a group home revoked or denied within the last 2 years before the date of the application. A person is deemed ineligible to submit an application for a license within 2 years from the date the person had a group home license revoked or denied.

HFS 57.50 Licensure prohibited. (1) The department shall not license a person if any one of the following circumstances exists:

(a) The department has received certification pursuant to s. 49.857 (2), Stats., from the department of workforce development that the applicant or licensee has failed to pay court-ordered payments of child or family support or expenses related to the support of a child or former spouse or has failed to comply with a subpoena or warrant by the department of workforce development or a county child support agency related to paternity or child support proceedings.

(b) The department has received certification pursuant to s. 73.0301, Stats., from the department of revenue certifying that the applicant or licensee has a delinquent tax liability.

(c) The licensee or applicant has given false information to a government agency, failed to submit a complete application, withheld relevant information, or failed to pay any fee, forfeiture or assessment due to a government agency.

(2) The department may deny a license if any one of the following circumstances exists:

(a) A person has behavior or a mental or physical condition that gives reasonable concern for the safety of residents.

(b) Another group home operated by the licensee is in substantial non-compliance with the licensing rules or has outstanding fines or forfeitures.

(c) If an applicant, owner, or licensee, a proposed or current staff member, volunteer, household member or any other person who has or will have contact with residents is any of the following:

1. A person who is the subject of a pending criminal charge or who has been convicted of a felony or misdemeanor that substantially relates to the care of children or activities of the group home.

Note: Examples of charges and offenses the department will consider in making a determination under this paragraph that an act substantially relates to the care of children are: sexual assault; abuse of a resident of a facility; a crime against life and bodily security; kidnapping; abduction; arson of a building or of property other than a building; robbery; receiving stolen property from a child; a crime against sexual morality such as enticing a minor for immoral purposes or exposing a minor to harmful materials; and interfering with the custody of a child. The list is illustrative. Other types of offenses may be considered.

2. A person who has been determined by a government agency to have abused or neglected a child or who has been determined to have committed an offense that is substantially related to the care of children or activities of the group home.

3. A person against whom a finding of abuse or neglect or of a misappropriation of property of a client has been entered on the Wisconsin caregiver registry maintained by the department pursuant to ch. HFS 13.

4. A person who is the subject of a court finding that the person has abandoned, abused, or neglected a child.

5. A person who fails to submit an HFS 64 background information disclosure form completed under the requirements of s. 48.685, Stats., and ch. HFS 12, and this chapter, or a person who has made false statements on the background information disclosure form.

(3) If a person's license is denied or revoked under sub. (1), reinstatement of the license is pursuant to ss. 49.857 or 73.0301, Stats., as applicable.

HFS 57.51 Probationary and regular license. (1) The initial license granted to an applicant for a group home license shall be a probationary license. A probationary license shall be valid for a period of 6 months from the date of issuance unless sooner revoked or suspended. A probationary license may be renewed for an additional 6-month period.

(2) If a probationary licensee wishes to apply for a regular license, the probationary licensee shall submit to the department, the application and materials specified in s. HFS 57.49, at least 30 days before the date the probationary license expires.

(3) Upon receipt of a complete application for a regular license and except as provided in s. HFS 57.50, the department may issue a regular license which shall be valid and continued for a period of 2 years unless sooner revoked or suspended.

(4) If the licensee wishes to continue a regular license, the licensee shall submit to the department, the application and materials specified in s. HFS 57.49 at least 30 days before the end of the 2 year period. Upon receipt of a complete application to continue a regular license, and except as provided in s. HFS 57.50, the department may continue a regular license for an additional 2 years.

(5) If the department does not receive a complete application to continue a regular license at least 30 days before the end of each 2 year period, the department shall issue a written warning to the licensee. If the licensee fails to apply for a continuance of the license within 30 days after receipt of the warning, the department may revoke the license under s. HFS 57.56 for failure to apply for a continuance of the license as required in sub. (3), or take any other action appropriate to protect the health safety and welfare of the residents.

HFS 57.515 License provisions. The licensee may not change a license provision without first receiving approval from the department. The licensee shall submit to the department a written request for approval to amend the license. The request shall identify the provision that the licensee wishes to have amended or included under the license and the specific reasons that the provision should be amended or included under the license. Receipt of an amended license from the department shall be evidence of the department's approval of any requested changes to the license provisions.

Note: A request for approval for an amended license may be sent to the regional office that serves the group home.

HFS 57.52 Corporate licensure. (1) Before a corporation may be issued a license to operate a group home the corporation shall be incorporated under the laws of Wisconsin or shall have written authorization from the department of financial institutions to do business in Wisconsin.

(2) The corporation shall designate an authorized representative who shall have responsibility for the administration of the group home.

HFS 57.53 Transferability of license. A group home license may not be transferred.

HFS 57.54 Posting of license and citations. The group home license and any exceptions to the license granted by the department under s. HFS 57.02, citations issued by the department in its most recent inspection on the department's form CFS-294, and any notice of enforcement action including notices of license revocation, non-renewal, or summary suspension shall be posted in a place in the group home where it can be easily viewed by the public.

HFS 57.55 Sanctions and penalties. The department may impose an order or penalty as provided in s. 48.715 (2) and (3) Stats.

HFS 57.56 License revocation. (1) In addition to the reasons for revocation specified under ss. 48.66 (5) and 48.715 (4) and (4m), Stats., the department may revoke a regular or probationary license under any of the following circumstances:

(a) If an applicant, owner, or licensee, a proposed or current staff member, volunteer, household member or any other person who has or will have contact with residents is any of the following:

1. A person who is the subject of a pending criminal charge or who has been convicted of a felony or misdemeanor that substantially relates to the care of children or activities of the group home.

Note: Examples of charges and offenses the department will consider in making a determination under this paragraph that an act substantially relates to the care of children are: sexual assault; abuse of a resident of a facility; a crime against life and bodily security; kidnapping; abduction; arson of a building or of property other than a building; robbery; receiving stolen property from a child; a crime against sexual morality such as enticing a minor for immoral purposes or exposing a minor to harmful materials; and interfering with the custody of a child. The list is illustrative. Other types of offenses may be considered.

2. A person who has been determined by a government agency to have abused or neglected a child or who has been determined to have committed an offense that is substantially related to the care of children or activities of the group home.

3. A person against whom a finding of abuse or neglect or of a misappropriation of property of a client has been entered on the Wisconsin caregiver registry maintained by the department pursuant to ch. HFS 13.

4. A person who is the subject of a court finding that the person has abandoned, abused, or neglected a child.

5. A person who fails to submit an HFS 64 background information disclosure form completed under the requirements of s. 48.685, Stats., and ch. HFS 12, and this chapter, or a person who has made false statements on the background information disclosure form.

(b) The licensee or applicant has given false information to a government agency, failed to submit a complete application, withheld relevant information or failed to pay any fee, forfeiture or assessment due to a government agency.

(2) Upon receipt of a notice of revocation, the licensee may not admit any child for care to the group home without written approval of the department. By the effective date of a license revocation, the licensee shall have arranged for discharge of the residents in the manner specified under s. HFS 57.20 (6).

(2m) (a) If the department determines not to grant a license or to revoke a license, the department shall notify the applicant or licensee in writing of its decision and the reasons for that decision. Revocation of a license shall take effect either immediately upon notification or 30 days after the date of the notice unless the decision is appealed under s. HFS 57.58. Whether the revocation shall take effect immediately upon notification or 30 days after the date of the notice shall be determined in accordance with the criteria found under s. 48.715 (4m) (a) and (b), Stats.

(b) Upon receipt of the notice of revocation, and during any revocation proceedings that may result, the licensee may not accept for care any child not enrolled as of the date of receipt of the notice without written approval of the department's licensing representative.

HFS 57.57 Summary suspension of a license. (1) (a) The department may close a group home by summarily suspending a regular or probationary license if the department believes the action is required to protect the health safety, and welfare of residents. Reasons for summary suspension include all of the following:

1. Failure of the licensee to maintain or restore environmental protection for the residents, such as heat, water, electricity or telephone service.

2. The licensee or a person under the supervision of the licensee has committed an action or has created a condition relating to the operation or maintenance of the group home that directly threatens the health, safety or welfare of any child under the care of the licensee.

3. The licensee, an employee, a volunteer or any other person in regular contact with the residents in care has been convicted of, or has a pending charge for a crime against life or a crime of bodily injury.

4. A licensee, staff member, volunteer or any other person in regular contact with the residents in care is the subject of a current investigation for alleged child abuse or neglect under s. 48.981, Stats.

5. The reasons specified under s. HFS 57.56 (1) (a).

(b) Notice of summary suspension of a license may be written or verbal and shall specify the reason for the department action and the date the action becomes effective.

(2) If the department determines that circumstances which caused the action in sub. (1) require the immediate relocation of the residents, the department shall order the licensee orally and in writing to relocate the residents to suitable housing and to notify for each resident, the placing agency and parent or guardian within 24 hours after relocating the resident into that housing.

(3) Within 72 hours after the order in sub. (1), the department shall either permit the reopening of the group home or proceed to revoke the group home's license.

(4) The division of hearings and appeals shall hold a preliminary hearing within 10 working days after the effective date of the order in sub. (1) to determine if the license should remain suspended during revocation proceedings. The division of hearings and appeals shall give written notice of the hearing to the licensee and the department.

HFS 57.58 Appeal procedure. (1) Except as provided in subs. (3) and (4), a department decision to deny, refuse to renew, or revoke a license or to issue an order or decision affecting the licensee under ss. 48.64 or 48.715, Stats., may be reviewed under ch. 227, Stats.

(2) A request for a hearing shall be in writing and submitted to the department of administration's division of hearings and appeals. The request for a hearing shall be sent to the division of hearings and appeals within 10 days after receipt of the notice of the department's action. A request for hearing that is mailed to the division of hearings and appeals shall be considered filed with the division on the date of the postmark. A request for hearing that is hand-delivered to the division of hearings and appeals shall be considered filed on the date the request is received by the division of hearings and appeals. A request for hearing transmitted by facsimile to the division of hearings and appeals shall be considered filed on the date and time imprinted by the division's facsimile machine on the transaction report that accompanies the document. Documents received by facsimile after midnight local time shall be deemed filed on the first following business day.

Note: A request for hearing can be submitted by mail or hand-delivered to the Division of Hearings and Appeals, at 5005 University Ave., Room 201, Madison, WI 53705-5400, or faxed to the Division at (608) 264-9885. A copy of the request should be sent to the regional licensing office listed in Appendix A that serves the group home.

(3) An appeal of a denial or revocation based on a certification by the department of workforce development of failure to pay court-ordered payments of support or failure to comply with a subpoena or warrant issued by the department of workforce development shall be filed pursuant to s. 49.857, Stats.

(4) An appeal of a denial, refusal to renew or revocation of a license based on a certification of tax delinquency from the department of revenue shall be filed within 30 days after the date on which the notice of denial, refusal to renew, or revocation as required under s.73.0301 (2) (b) 1. b., Stats.

HFS 57.59 Complaints. Any person having a complaint about a licensed group home or a group home operating without a license may submit that complaint to the department by telephone, facsimile, electronic mail, letter or personal interview. A department licensing

representative shall investigate each complaint. The department shall send a written report of the findings of that investigation to the complainant upon request.

Note: A complaint should be sent, phoned or delivered to the regional field office listed in Appendix A that serves the group home.

SECTION 2. HFS 57 Appendix A is created to read:

**Chapter HFS 57
APPENDIX A**

FIELD OFFICES OF THE DIVISION OF CHILDREN AND FAMILY SERVICES

The Department of Health and Family Services licenses group homes for children through five Division of Children and Family Services field offices. Below are addresses and phone numbers of the field offices and related counties.

Northeastern Region

(Green Bay)
200 North Jefferson
Suite 411
Green Bay, WI 54301-5191
(920) 448-5312

Brown, Calumet, Door, Fond du Lac, Green Lake, Kewaunee, Manitowoc, Marinette, Marquette, Menominee, Oconto, Outagamie, Ozaukee, Shawano, Sheboygan, Washington, Waupaca, Waushara, Winnebago

Northern Region

(Rhineland)
1853 North Stevens Street
P.O. Box 697
Rhineland, WI 54501-0697
(715) 365-2500

Adams, Ashland, Bayfield, Florence, Forest, Iron, Juneau, Langlade, Lincoln, Marathon, Oneida, Portage, Price, Sawyer, Taylor, Vilas, Wood

Southeastern Region

(Waukesha)
141 N.W. Barstow Street, Room 104
Waukesha, WI 53188-3789
(262) 521-5100

Kenosha, Milwaukee, Racine, Waukesha

Southern Region

(Madison)
2917 International Lane, Suite 110
Madison, WI 53704
(608) 243-2400

Columbia, Crawford, Dane, Dodge, Grant, Green, Iowa, Jefferson, Lafayette, Richland, Rock, Sauk, Walworth

Western Office

(Eau Claire)
610 Gibson Street, Suite 2
Eau Claire, WI 54701-3696
(715) 836-2157

Barron, Buffalo, Burnett, Chippewa, Clark, Douglas, Dunn, Eau Claire, Jackson, LaCrosse, Monroe, Pepin, Pierce, Polk, Rusk, St. Croix, Trempealeau, Vernon, Washburn

SECTION 3. HFS 57 Appendix B is created to read:

Chapter HFS 57

APPENDIX B

CACFP Meal Pattern Requirements—Ages 1 to 12

The meal pattern shall contain, as a minimum, each of the following components in the amounts indicated for the specific age group.

| | Ages 1 & 2 | Ages 3, 4, & 5 | Age 6 up to 12 |
|-------------------------------------------------------|--------------------------------|--------------------------------|------------------------------|
| BREAKFAST | | | |
| 1. Milk | 1/2 cup | 3/4 cup | 1 cup |
| 2. Juice ^a or fruit or vegetable | 1/4 cup | 1/2 cup | 1/2 cup |
| 3. Grains/Breads: ^b | | | |
| Bread | 1/2 slice | 1/2 slice | 1 slice |
| Cereal: | | | |
| Cold dry | 1/4 cup or 1/3 oz ^c | 1/3 cup or 1/2 oz ^c | 3/4 cup or 1 oz ^c |
| Hot cooked | 1/4 cup total | 1/4 cup | 1/2 cup |
| LUNCH OR SUPPER | | | |
| 1. Milk | 1/2 cup | 3/4 cup | 1 cup |
| 2. Meat or meat alternate: | | | |
| Meat, poultry, fish, cheese | 1 oz | 1 1/2 oz | 2 oz |
| Yogurt | 4 oz or 1/2 cup | 6 oz or 3/4 cup | 8 oz or 1 cup |
| Egg | 1 egg | 1 egg | 1 egg |
| Cooked dry beans or peas | 1/4 cup | 3/8 cup | 1/2 cup |
| Peanut butter or other nut or seed butter | 2 Tbsp | 3 Tbsp | 4 Tbsp |
| Peanuts or soy nuts or tree nuts or seeds | 1/2 oz = 50% ^d | 3/4 oz = 50% ^d | 1 oz = 50% ^d |
| 3. Vegetable and/or fruit ^e (at least two) | 1/4 cup total | 1/2 cup total | 3/4 cup total |
| 4. Grains/Breads ^b | 1/2 slice | 1/2 slice | 1 slice |
| SNACK | | | |
| Select two of the following four components: | | | |
| 1. Milk | 1/2 cup | 1/2 cup | 1 cup |
| 2. Juice ^a or fruit or vegetable | 1/2 cup | 1/2 cup | 3/4 cup |
| 3. Grains/Breads: ^b | | | |
| Bread | 1/2 slice | 1/2 slice | 1 slice |
| Cereal: | | | |
| Cold dry | 1/4 Cup or 1/3 oz ^c | 1/3 cup or 1/2 oz ^c | 3/4 cup or 1 oz ^c |
| Hot cooked | 1/4 cup | 1/4 cup | 1/2 cup |
| 4. Meat or meat alternate: | | | |
| Meat, poultry, fish, cheese | 1/2 oz | 1/2 oz | 1 oz |
| Egg | 1/2 egg | 1/2 egg | 1 egg |
| Cooked dry beans or peas | 1/8 cup | 1/8 cup | 1/4 cup |
| Peanut butter or other nut or seed butter | 1 Tbsp | 1 Tbsp | 2 Tbsp |
| Peanuts or soy nuts or tree nuts or seeds | 1/2 oz | 1/2 oz | 1 oz |
| Yogurt, plain, or sweetened and flavored | 2 oz or 1/4 cup | 2 oz or 1/4 cup | 4 oz or 1/2 cup |

a Must be full strength fruit or vegetable juice

b Must be whole grain or enriched

c Either volume (cup) or weight (oz), whichever is less.

- d No more than 50% of the requirement shall be met with nuts or seeds. Nuts and seeds shall be combined with another meat/meat alternate to fulfill the requirement.
- e Serve 2 or more kinds of vegetable(s) and/or fruit(s). Full strength vegetable or fruit juice may be counted to meet not more than one-half of this requirement.

SECTION 4. HFS 57 Appendix C is created to read:

Chapter HFS 57

Appendix C

CACFP MEAL PATTERN REQUIREMENTS - BIRTH THROUGH 11 MONTHS

The infant meal pattern shall contain, as a minimum, each of the following components in the amounts indicated for the specific age group.

The minimum quantity of food shall be provided to the infant, but may be served during a span of time consistent with the infant's eating habits.

Infant Meal Pattern

| Birth Through 3 Months | 4 Through 7 Months | 8 Through 11 Months |
|-----------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>BREAKFAST</p> <p>4 - 6 fl. oz. formula¹ or breast milk^{5,6}</p> | <p>4 - 8 fl. oz. formula¹ or breast milk^{5,6}</p> <p>0 - 3 T. infant cereal² (optional)</p> | <p>6 - 8 fl. oz. formula¹ or breast milk^{5,6}</p> <p>2 - 4 T. infant cereal²</p> <p>1 - 4 T. fruit and/or vegetable</p> |
| <p>LUNCH OR SUPPER</p> <p>4 - 6 fl. oz. formula¹ or breast milk^{5,6}</p> | <p>4 - 8 fl. oz. formula¹ or breast milk^{5,6}</p> <p>0 - 3 T. infant cereal² (optional)</p> <p>0 - 3 T. fruit and/or vegetable (optional)</p> | <p>6 - 8 fl. oz. formula¹ or breast milk^{5,6}</p> <p>2 - 4 T. infant cereal² and/or</p> <p>1 - 4 T. meat, fish, poultry, egg yolk, or cooked dry beans or peas, or</p> <p>1/2-2 oz. cheese or 1-4 oz. cottage cheese, cheese food, or cheese spread</p> <p>1 - 4 T. fruit and/or vegetable</p> |
| <p>SUPPLEMENT</p> <p>4 - 6 fl. oz. formula¹ or breast milk^{5,6}</p> | <p>4 - 6 fl. oz. formula¹ or breast milk^{5,6}</p> | <p>2 - 4 fl. oz. formula¹, breast milk^{5,6}, or fruit juice³</p> <p>0 - 1/2 bread or</p> <p>0 - 2 crackers (optional)⁴</p> |

1 Shall be iron-fortified infant formula.

2 Shall be iron-fortified dry infant cereal.

3 Shall be full strength fruit juice.

4 Shall be from whole-grain or enriched meal or flour.

5 It is recommended that breast milk be served in place of formula from birth through 11 months.

6 For some breastfed infants who regularly consume less than the minimum amount of breast milk per feeding, a serving of less than the minimum amount of breast milk may be offered, with additional breast milk offered if the infant is still hungry.

Required Guidelines for Infant Meal Pattern

Definition of Infant. Any child less than 12 months of age.

Definition of Infant Formula. Infant formula defined by USDA is "any iron-fortified infant formula intended for dietary use as a sole source for food for normal healthy infants served in liquid state at manufacturer's recommended dilution".

Parent Providing Infant Breastmilk. The decision regarding which infant formula to feed an infant is one for the infant's doctor and parents/guardian to make together.

SECTION 5. HFS 57 Appendix D is created to read:

**Chapter HFS 57
APPENDIX D**

STAFF TO CHILD RATIO WORKSHEET

| (1) | (2) | (3) | (4) |
|----------------|----------------------------|--------------------------------|---------------------------------------|
| Age of Child | # of Children in Age Group | Numerical Weight for Age Group | Weight in Age Grp. Col. 2 x Col. 3 |
| Birth to 2 | | 0.25 | |
| 2 years | | 0.167 | |
| 2 1/2 years | | 0.125 | |
| 3 years | | 0.10 | |
| 4 years | | 0.077 | |
| 5 years | | 0.059 | |
| 6 years & over | | 0.056 | |
| TOTAL | | | TOTAL |

Total staff required (from column #4)

One staff member is required for a group of children whose individual numerical weights total 1.0.

SECTION 6. EFFECTIVE DATE. The rules contained in this order shall take effect on the first day of the 4th month following publication in the Wisconsin Administrative Register, as provided in s. 227.22 (2), Stats.

Wisconsin Department of Health
and Family Services

Dated: August 10, 2005

By: _____
Helene Nelson
Secretary

SEAL: