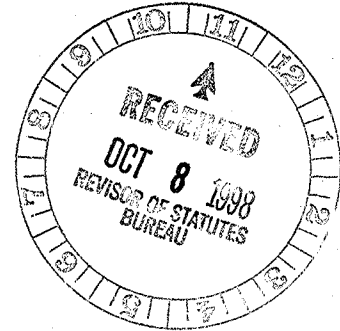


Clearinghouse Rule 98-069

CERTIFICATE



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

I, Joseph Leean, Secretary of the Department of Health and Family Services and custodian of the official records of the Department, do hereby certify that the annexed rules relating to residential care apartment complexes (formerly known as assisted living facilities) were duly approved and adopted by this Department on October 8, 1998.

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

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the State Office Building, 1 W. Wilson Street, in the city of Madison, this 8th day of October, 1998.

Joseph Leean, Secretary
Department of Health and Family Services

SEAL:

98-069
12-1-98

ORDER OF THE
DEPARTMENT OF HEALTH AND FAMILY SERVICES
AMENDING AND CREATING RULES

To amend chapter HFS 89 (title), 89.11, 89.12 (1), 89.13 (1), (2), (6) (Note) (14) (Note) and (30), 89.14, 89.15, 89.21, 89.22 (1) and (Note), (2) (a) and (b) 1., and (e) 3., (3) and (4), 89.23 (1), (2) (a) 2. (intro.) and 3. and (c), (3) (a), (4) (a) 1., (b), (c) and (d) 2., (5) and (6), 89.24 (1), (2) and (3) (a) and (Note) and (b) 4., 89.25 (1) (intro.), 89.26 (3) (c) 1., 89.27 (1), (2) (c) 1. b. and 3., 89.28 (1) and (5), 89.29 (1) (intro.), (2) (a), (b) (intro.) and (c) and (3) (a) (intro.), (b) and (c) (intro.), 89.31, 89.32, 89.33, 89.34 (intro.), (6), (9) and (12), 89.35, 89.41, 89.42, 89.43 (2) to (4), 89.44 (1) (intro.) and (2) to (5), 89.51 (1), 89.52, 89.53 (1) (b), (2) (a) to (c) and (e), (3) (h) and (5), 89.57, 89.58 and 89.61 (intro.) and to create HFS 89.11 (Note), relating to residential care apartment complexes (formerly known as assisted living facilities).

Analysis Prepared by the Department of Health and Family Services

A recent session law, 1997 Wisconsin Act 13, amended s. 50.034, Stats., to change the generic name of a type of regulated residential facility called "assisted living facility" to "residential care apartment complex" and to define "stove" as the term is used in the statutory definition of "residential care apartment complex."

This order brings ch. HFS 89 into conformity with the two changes made in the program statute, s. 50.034, Stats., by Act 13. This has involved substituting the terms "residential care apartment complex," "a residential care apartment complex" and "residential care apartment complexes" for, respectively, "assisted living facility," an assisted living facility" and "assisted living facilities" throughout ch. HFS 89, and replacing the definition of "stove" that had been in the rules since ch. HFS 89 went into effect in March 1997 with the statutory definition.

Before Act 13 went into effect in September 1997, "stove" was not defined in the program statute, but under ch. HFS 89 it was defined as a cooking appliance consisting of burners and an oven, with the oven permitted to be a separate microwave oven. Section 50.01 (1d), Stats., as amended by Act 13, states that a stove is a cooking appliance that is either a microwave oven of at least 1000 watts or consists of burners and an oven.

The Department's authority to amend and create these rules is found in s. 50.034 (2), Stats. The rules interpret ss. 50.01 (1d) and 50.034, Stats.

SECTION 1. Chapter HFS 89 (title) is amended to read:

CHAPTER HFS 89 (title)
ASSISTED LIVING FACILITIES RESIDENTIAL CARE APARTMENT COMPLEXES
(FORMERLY, ASSISTED LIVING FACILITIES)

SECTION 2. Wherever in ch. HFS 89, except in s. HFS 89.15, the terms “assisted living facility,” “an assisted living facility” and “assisted living facilities” are found, substitute, respectively, “residential care apartment complex,” “a residential care apartment complex” and “residential care apartment complexes.”

SECTION 3. HFS 89.11 (Note) is created to read:

HFS 89.11 (Note) Before September 6, 1997, residential care apartment complexes were called “assisted living facilities.” The name change was made by 1997 Wisconsin Act 13.

SECTION 4. HFS 89.13 (6) (Note) and (14) (Note) are amended to read:

HFS 89.13 (6) (Note) Congregate housing may become ~~assisted living a residential care apartment complex~~ if it chooses to offer supportive, personal and nursing services.

(14) (Note) Housing for the elderly may become ~~assisted living a residential care apartment complex~~ if it chooses to offer supportive, personal and nursing services.

SECTION 5. HFS 89.13 (30) is amended to read:

HFS 89.13 (30) “Stove” means a cooking appliance ~~which~~ that is a microwave oven of at least 1000 watts or that consists of burners and an oven. ~~The oven may be a separate microwave oven.~~


SECTION 6. HFS 89.15 is amended to read:

HFS 89.15 LIMITATION ON USE OF NAME “RESIDENTIAL CARE APARTMENT COMPLEX”. As provided in s. 50.034 (5), Stats., an entity that does not meet the definition of ~~assisted living residential care apartment complex~~ under s. 50.01 (1) (1d), Stats., may not designate itself as ~~an “assisted living facility a residential care apartment complex~~ or use the ~~word~~ words “assisted living facility” “residential care apartment complex” to represent or tend to represent the entity as ~~an assisted living facility a residential care apartment complex~~ or services provided by the entity as services provided by ~~an assisted living facility a residential care apartment complex~~.

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

Wisconsin Department of Health and
Family Services

Dated: **October 8, 1998**

By: 

Joseph Lee
Secretary

SEAL: