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Chapter DHS 83

COMMUNITY-BASED RESIDENTIAL FACILITIES

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Note: Chapter HSS 3 as it existed on June 30, 1996 was repealed and a new chapter HFS 83 was created effective July 1, 1996 and corrections were made under s. 13.93 (2m) (b) 1., 6. and 7., Stats., Register, July, 1996, No. 487. Corrections made under s. 13.93 (2m) (b) 6., 7. and 14., Stats., Register, November, 1996, No. 491. Corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, October, 1999, No. 526. Chapter HFS 83 was renumbered to chapter DHS 83 under s. 13.92 (4) (b) 1., Stats., and corrections made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635. **Chapter DHS 83 as it existed on March 31, 2009 was repealed and a new chapter DHS 83 was created effective April 1, 2009, and corrections made under s. 13.92 (4) (b) 7., Stats., Register January 2009 No. 637.**

Subchapter I — General Provisions

DHS 83.01 Authority and purpose. (1) This chapter is promulgated under the authority of s. 50.02 (2), Stats., to develop and establish regulations and standards for the care, treatment or services, and health, safety, rights, welfare, and comfort of residents in CBRFs.

(2) The chapter is intended to ensure all CBRFs provide a living environment for residents that is as homelike as possible and is the least restrictive of each resident's freedom; and that care and services a resident needs are provided in a manner that protects the rights and dignity of the resident and that encourages the resident to move toward functional independence in daily living or to maintain independent functioning to the highest possible extent.

History: CR 07-095; cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.02 Definitions. In this chapter:

(1) "Abuse" has the meaning given in s. 46.90 (1), Stats.

(2) "Accessible" means barriers are not present that prevent a person from entering, leaving or functioning within a CBRF without physical help.

(3) "Activities of daily living" means bathing, eating, oral hygiene, dressing, toileting and incontinence care, mobility and transferring from one surface to another such as from a bed to a chair.

(4) "Administrator" means an employee, including the licensee, or an employee designated by the licensee, who is responsible for the management and day-to-day operation of the CBRF.

(5) "Adult" means an individual who is at least 18 years of age.

(6) "Ambulatory" means the ability to walk without difficulty or help.

(7) "Apartment" means a living space with separate living, toileting and sleeping areas.

(8) "Applicant" means the person seeking licensure of a CBRF.

(9) "Area of refuge" means a room or stairwell landing for residents who cannot negotiate stairs, used for safe, temporary refuge in a fire or other emergency to await instruction or assistance.

(10) "Assessment" means gathering and analyzing information about a prospective or existing resident's needs and abilities.

(11) "Basement" means that portion of a building that is partly or completely below grade.

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(12) “Care, treatment or services” means the provision of personal care, supervision, supervision of medication administration, management, or assistance to a resident by the CBRF, an employee, or by a person, agency or corporation affiliated with or under contract to the operator that is above the level of room and board.

(13) “Caregiver” has the meaning given in s. 50.065 (1) (ag), Stats.

(14) “Case manager” means a person who plans, coordinates and oversees the care of a resident.

(15) “Chemical restraint” means a psychotropic medication used for discipline or convenience, and not required to treat medical symptoms.

(16) “Client group” means individuals who need similar services because of a common disability, condition or status. Client groups include individuals:

(a) With functional impairments that commonly accompany advanced age.

(b) With irreversible dementia, such as Alzheimer’s disease.

(c) Who have a developmental disability as given in s. 51.01 (5), Stats.

(d) Who are emotionally disturbed or who have a mental illness as given in s. 51.01 (13) (a), Stats.

(e) Who are alcoholic as given in s. 51.01 (1), Stats., or who are drug dependent as defined in s. 51.01 (8), Stats.

(f) With physical disabilities.

(g) Who are pregnant and in need of counseling services.

(h) Under the legal custody of a government correctional agency or under the legal jurisdiction of a criminal court.

(i) Diagnosed as terminally ill.

(j) With traumatic brain injury.

(k) With acquired immunodeficiency syndrome (AIDS).

(17) “Common dining and living space” means areas of the CBRF that are available to all residents for living and dining.

(18) “Community-based residential facility” or “CBRF” has the meaning given in s. 50.01 (1g), Stats.

(19) “Department” means the Wisconsin department of health services.

(20) “Dietary supplement” means a product taken by mouth that contains a dietary ingredient such as vitamins, minerals, herbs or other botanicals, amino acids, and substances such as enzymes, organ tissues, glandulars, and metabolites.

(21) “Dietitian” means a person certified under subch. V of 448, Stats.

(22) “Employee” means any person who works for a CBRF or for an entity that is affiliated with the CBRF or that is under contract to the CBRF, who is under direct control of the CBRF or corporation affiliated with the CBRF and who receives compensation subject to state and federal employee withholding taxes.

(23) “Habitable floor” means any floor level used by residents or other occupants of the CBRF, for sleeping, living, cooking or dining, including a basement.

(24) “Habitable room” means any room used for sleeping, living, cooking or dining, excluding enclosed places such as closets, pantries, hallways, laundries, storage spaces, utility rooms and administrative offices.

(25) “Horizontal evacuation” means egress travel from one building to an area in another building on approximately the same level, or egress travel through or around a wall or partition which affords safety from fire and smoke to an area on approximately the same level in the same building.

(26) “Intermediate level nursing care” means care that is required by a person who has a long-term illness or disability who has reached a relatively stable condition.

(27) “Involuntary administration of psychotropic medication” means any one of the following:

(a) Placing psychotropic medication in an individual’s food or drink with knowledge that the individual protests receipt of the psychotropic medication.

(b) Forcibly restraining an individual to enable administration of psychotropic medication.

(c) Requiring an individual to take psychotropic medication as a condition of receiving privileges or benefits.

(28) “Legal representative” means a person who is any of the following:

(a) The health care agent under an activated power of attorney for health care under ch. 155, Stats.

(b) A person appointed as a durable power of attorney under s. 243.07, Stats.

(c) A guardian as given in s. 54.01 (10) to (12), Stats.

(29) “Medication administration” means the direct injection, ingestion or other application of a prescription or over-the-counter drug or device to a resident by a practitioner, the practitioner’s authorized agent, CBRF employees or the resident, at the direction of the practitioner. Medication administration does not include reminders to take medication.

(30) “Misappropriation of property” has the meaning as given in s. DHS 13.03 (12).

(31) “Neglect” has the meaning as given in s. 46.90 (1) (f), Stats.

(32) “New construction” means construction for the first time of any building or addition to an existing building on or after the effective date of this chapter.

(33) “NFPA” means the National Fire Protection Association.

(34) “Non-ambulatory” means a person who is unable to walk, but who may be mobile with the help of a wheelchair or other mobility devices.

(35) “Nursing care” means nursing procedures, other than personal care, that a registered nurse or a licensed practical nurse performs directly on or to a resident.

(36) “Other occupant” means any person who lives and sleeps in the CBRF, but who is not a resident of the CBRF.

(37) “Personal care” means assistance with activities of daily living, but does not include nursing care.

(38) “Pharmacist” means an individual licensed under ch. 450, Stats.

(39) “Physical restraint” means any manual method, article, device, or garment interfering with the free movement of the resident or the normal functioning of a portion of the resident’s body or normal access to a portion of the resident’s body, and which the resident is unable to remove easily, or confinement of a resident in a locked room.

(40) “Practitioner” means a person licensed in Wisconsin to prescribe and administer drugs or licensed in another state and recognized by this state as a person authorized to prescribe and administer drugs.

(41) “Psychotropic medication” means a prescription drug, as given in s. 450.01 (20), Stats., that is used to treat or manage a psychiatric symptom or challenging behavior.

(42) “Qualified resident care staff” means an employee who has successfully completed all of the applicable training and orientation under subch. IV.

(43) “Relative” means a spouse, parent, stepparent, child, stepchild, sibling, grandchild, grandparent, aunt, uncle, niece, or nephew.

(44) “Remodeling” means to make over or rebuild a portion of a building, structure or room, thereby modifying its structural strength, fire hazard character, exiting, heating and ventilating systems, electrical system, fire alarm, and fire protection systems, call system, internal circulation or use as previously approved by

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the department. Construction of interior walls shall be considered remodeling. Remodeling does not include minor repairs necessary for the maintenance of a building such as replacing like components of existing systems, redecorating existing walls or replacing floor finishes.

(45) “Reside” means the intent to remain in the CBRF permanently or continuously for more than 28 consecutive days.

(46) “Resident” means a person unrelated to the licensee or administrator who resides in the CBRF and who receives care, treatment or services in addition to room and board.

(47) “Resident care staff” means the licensee and all employees who have one or more of the following responsibilities for residents: supervising a resident’s activities or whereabouts, managing or administering a resident’s medications, providing personal care or treatments for a resident, planning or conducting training or activity programming for a resident. Resident care staff does not include volunteers and employees who work exclusively in the food service, maintenance, laundry service, housekeeping, transportation, or security or clerical areas, and employees that do not work on the premises of the CBRF.

(48) “Respite care” means a person’s temporary placement in a CBRF for no more than 28 consecutive days for care, treatment or services as established by the primary care provider.

(49) “Room” means a space that is completely enclosed by walls and a ceiling.

(50) “Seclusion” means physical or social separation of a resident from others by actions of employees, but does not include separation to prevent the spread of communicable disease or voluntary cool-down periods in an unlocked room.

(51) “Semi-ambulatory” means a person is able to walk with difficulty or only with the assistance of an aid such as crutches, cane or a walker.

(52) “Significant change in a resident’s physical or mental condition” means one or more of the following:

- (a) Decline in a resident’s medical condition that results in further impairment of a long term nature.
- (b) Decline in 2 or more activities of daily living.
- (c) A pronounced decline in communication or cognitive abilities.
- (d) Decline in behavior or mood to the point where relationships have become problematic.
- (e) Significant improvement in any of the conditions in pars. (a) to (d).

(53) “Standard precautions” means measures taken to reduce the risk of transmission of infection from contact with blood, body fluids or other moist body substances including all mucous membranes, non-intact skin, blood, all body fluids, secretions, and excretions except sweat, whether or not they contain visible blood.

(54) “Supervision” means oversight of a resident’s daily functioning, keeping track of a resident’s whereabouts and providing guidance and intervention when needed by a resident.

(55) “Terminal illness” means a medical prognosis issued in writing by a physician or other qualified medical professional that an individual’s life expectancy is less than 12 months.

(56) “Therapeutic diet” means a food regimen ordered by a physician or other medical professional directed by the physician.

(57) “Unit dose” means medications packaged by a pharmacist in blister cards, punch cards, strip packaging, medication reminder boxes or other similar packaging where the medication dose is packaged in a pre-selected dose.

(58) “Utensils” means dishes, silverware and pots and pans used for preparing, serving or consuming food.

(59) “Volunteer” means any person who provides services for residents without compensation, except for reimbursement of expenses related to services provided at the CBRF.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09; correction in (30) made under 13.92 (4) (b) 7., Stats., Register January 2009 No. 637.

DHS 83.03 Variance and waiver. (1) In this section:

(a) “Variance” means the granting of an alternate means of meeting a requirement in this chapter.

(b) “Waiver” means the granting of an exemption from a requirement of this chapter.

(2) EXCEPTION TO A REQUIREMENT. (a) The department may grant a waiver or variance if the department determines that the proposed waiver or variance will not jeopardize the health, safety, welfare or rights of any resident.

(b) A written request for a waiver or variance shall be sent to the department and include justification that the waiver or variance will not adversely affect the health, safety or welfare of any resident for the requested action.

(c) A written request for a variance shall include a description of an alternative means planned to meet the intent of the requirement.

Note: Send a request for a waiver or variance of a requirement of this chapter to the appropriate regional office of the Department’s Division of Quality Assurance listed in Appendix A. Information about the Division of Quality Assurance can be found at: http://dhs.wi.gov/rl_dsl/bqainternet.htm

(3) The department may rescind a waiver or variance if any of the following occurs:

(a) The department determines the waiver or variance has adversely affected the health, safety or welfare of the residents.

(b) The CBRF fails to comply with any of the conditions of the waiver or variance as granted.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

Subchapter II — Licensing

DHS 83.04 Licensing categories. The department shall license each CBRF as follows:

(1) SIZE. (a) A CBRF for 5 to 8 residents is a small CBRF.

(b) A CBRF for 9 to 20 residents is a medium CBRF.

(c) A CBRF for 21 or more residents is a large CBRF.

(2) CLASSIFICATION. (a) *Class A ambulatory.* A class A ambulatory CBRF serves only residents who are ambulatory and who are mentally and physically capable of responding to a fire alarm by exiting the CBRF without any help or verbal or physical prompting.

(b) *Class A semi-ambulatory (AS).* A class A semi-ambulatory CBRF serves only residents who are ambulatory or semi-ambulatory and who are mentally and physically capable of responding to a fire alarm by exiting the CBRF without any help or verbal or physical prompting.

(c) *Class A non-ambulatory (ANA).* A class A non-ambulatory CBRF serves residents who are ambulatory, semi-ambulatory or non-ambulatory and who are mentally and physically capable of responding to a fire alarm by exiting the CBRF without any help or verbal or physical prompting.

(d) *Class C ambulatory (CA).* A class C ambulatory CBRF serves only residents who are ambulatory but one or more of whom are not mentally capable of responding to a fire alarm by exiting the CBRF without any help or verbal or physical prompting.

(e) *Class C semi-ambulatory (CS).* A class C semi-ambulatory CBRF serves only residents who are ambulatory or semi-ambulatory, but one or more of whom are not physically or mentally capable of responding to a fire alarm by exiting the CBRF without help or verbal or physical prompting.

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(f) *Class C non-ambulatory (CNA)*. A class C non-ambulatory CBRF serves residents who are ambulatory, semi-ambulatory or non-ambulatory, but one or more of whom are not physically or mentally capable of responding to a fire alarm by exiting the CBRF without help or verbal or physical prompting.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.05 Application requirements. (1) No person may conduct, maintain, operate or permit to be maintained or operated a CBRF unless the CBRF is licensed by the department. A person who assumes ownership interest in a CBRF, regardless of whether the transfer includes title to the real estate, or changes the location of the CBRF shall complete an application as required under sub. (2).

(2) An application for initial licensure shall be on a form provided by the department and shall be accompanied by all of the following:

- (a) A program statement as specified under s. DHS 83.06 (1).
- (b) A floor plan specifying dimensions of the CBRF, exits and planned room usage.
- (c) A fire inspection form.
- (d) All required fees.
- (e) A balance sheet.
- (f) Evidence that the applicant has 60 days of projected operating funds in reserve.
- (g) Any additional information requested by the department.

Note: A copy of the application form can be obtained at http://dhs.wisconsin.gov/r_l_dsl/CBRF/CBRFinqResp.htm or by contacting the Division of Quality Assurance Regional Office listed in Appendix A.

(3) The applicant shall provide evidence to the department that the license applicant has made a good faith effort to establish a community advisory committee under s. 50.03 (4) (g), Stats.

(4) A CBRF may not be located on a parcel of land zoned for commercial, industrial or manufacturing use.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.06 Program statement. (1) CONTENT. The program statement shall accurately include all of the following:

- (a) The name of the licensee, the administrator and the staff position in charge when the licensee or administrator is away from the CBRF.
- (b) Employee availability, including 24 hour staffing patterns and the availability of a licensed nurse, if any.
- (c) The resident capacity of the CBRF.
- (d) The class of the CBRF under s. DHS 83.04 (2).
- (e) The client group to be served. If serving more than one client group, the program statement shall include an explanation acceptable to the department of how the client groups are compatible with one another.
- (f) A complete description of the program goals and services consistent with the needs of residents.
- (g) Limitations of services, including the criteria for determining who may reside in the CBRF.
- (h) Respite care services, if provided.

(2) AVAILABILITY. (a) Before finalizing an agreement to provide care, the CBRF shall provide its program statement to each person seeking placement or to the person's legal representative. CBRFs serving only clients of a government correctional agency are exempt from paragraph (a).

(b) The program statement shall be available to employees, to residents and to any other person upon request.

(3) CHANGE IN PROGRAM STATEMENT. Any change in the program statement content under sub. (1) shall be submitted to the department at least 30 days before its effective date.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.07 Fit and qualified. (1) ELIGIBILITY. An applicant may not be licensed unless the department determines the applicant is fit and qualified to operate a CBRF.

(2) STANDARDS. In determining whether a person is fit and qualified, the department shall consider all of the following:

(a) *Compliance history.* Compliance history with Wisconsin or any other state's licensing requirements and with any federal certification requirements, including any license revocation or denial.

(b) *Criminal history.* Arrest and criminal records, including any of the following:

1. Crimes or acts involving abuse, neglect or mistreatment of a person or misappropriation of property of the person.
2. Crimes or acts subject to elder abuse reporting under s. 46.90, Stats.
3. Crimes or acts related to the manufacture, distribution, prescription, use, or dispensing of a controlled substance.
4. Fraud or substantial or repeated violations of applicable laws and rules in the operation of any health care facility or in the care of dependent persons.
5. A conviction or pending criminal charge which substantially relates to the care of adults or minors, to the funds or property of adults or minors, or to the operation of a residential or health care facility.

(c) *Financial history.* Financial stability, including

1. Financial history and financial viability of the owner or related organization.
2. Outstanding debts or amounts due to the department or other government agencies, including unpaid forfeitures and fines.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.08 Department action. (1) INITIAL LICENSE. (a) Within 70 days after receipt of a complete application, the department shall either approve or deny the license. The initial license issued by the department to an applicant may be a probationary license.

(b) A probationary or regular license issued by the department shall be only for the premises and persons named in the application. A license may not be transferred or assigned.

(c) A probationary license may be valid for up to 12 months, unless sooner revoked.

(d) A regular license is valid until suspended or revoked by the department.

(2) LICENSE DENIAL. The department shall deny a probationary or regular license to any applicant who does not substantially comply with any provision of this chapter or ch. 50, Stats., or who is not fit and qualified as specified in s. DHS 83.07 or who has failed to pay any fee or any outstanding amounts due to the department. The department shall provide the reasons for denial and the process for appeal of the denial in a written notice to the applicant.

(3) LICENSE REVOCATION. The department may revoke a license for any of the reasons and under the conditions specified under s. 50.03 (5g) (d) to (g), Stats.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.09 Biennial report and fees. Every 24 months, on a date determined by the department, the licensee shall submit a biennial report on the form provided by department, and shall submit payment of the license continuation fees.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.10 Change of ownership. (1) DUTIES OF THE TRANSFEROR. (a) The transferor shall notify the department within 30 days before the final change of ownership of a CBRF and shall include the name and contact information of the transferee.

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(b) The transferor remains responsible for the operation of the CBRF until the department issues a license to the transferee, unless the CBRF voluntarily closes, and relocates all residents.

(c) The transferor shall disclose to the transferee any existing department waiver, variance or outstanding deficiencies. The transferee shall apply for continuation of any existing waivers or variances, if necessary.

(d) The transferor shall follow the requirements for transferring financial responsibility under s. DHS 83.34 (7).

(e) The transferor shall remain liable for all forfeitures assessed against the facility which is imposed for violations occurring prior to transfer of ownership.

(f) The transferor shall notify residents or resident's legal representatives no less than 7 days in advance of the transfer of ownership.

(2) DUTIES OF THE TRANSFEREE. (a) When there is a change of ownership, the transferee shall notify the department of the transfer, and shall submit a complete application as required under s. DHS 83.05 at least 30 days prior to final transfer date.

(b) If there is less than 30 days notice given to residents of transfer of ownership, neither the transferor nor the transferee may enforce any advanced notice requirements for discharge as specified in any resident's admission agreement.

(3) TRANSFERABILITY. (a) The department shall issue a license only for the premises and persons named in the license application. A license may not be transferred or reassigned.

(b) The licensee shall notify the department in writing at least 30 days before the effective date of any of the following changes:

1. Removing, adding or substituting an individual as a partner in the association, dissolving the existing partnership and creating a new partnership.

2. Removing, adding, or substituting any member in a limited liability company.

3. Making a change in a corporate structure under which the same corporation no longer continues to be responsible for making operational decisions or for the consequences of those decisions.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.11 Facility closing. (1) Any CBRF that intends to close shall notify the department in writing at least 30 days before closing and comply with the requirements under s. 50.03 (5m), Stats., and s. DHS 83.31.

(2) If a CBRF is closing, intends to close, or changes its type or level of service or means of reimbursement and will relocate 5 residents or 5% of the CBRF's residents, whichever is greater, the CBRF shall follow the procedures under s. 50.03 (14), Stats.

(3) The CBRF shall surrender the license to the department when the CBRF closes.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.12 Investigation, notification, and reporting requirements. (1) **DEATH REPORTING.** (a) *Resident death related to physical restraint, psychotropic medication or suicide.* No later than 24 hours after the death of a resident, the CBRF shall report the death to the department if there is reasonable cause to believe the death was related to the use of a physical restraint or psychotropic medication, or was a suicide.

(b) *Resident death related to an accident or injury.* When a resident dies as a result of an incident or accident not related to the use of a physical restraint, psychotropic medication, or suicide, the CBRF shall send a report to the department within 3 working days of the resident's death.

(c) *Resident death due to natural causes.* A CBRF is not required to report a death to the department if the death is the result of natural causes, and none of the circumstances surrounding the death involve a condition under par. (a) or (b).

(2) INVESTIGATING AND REPORTING ABUSE, NEGLECT OR MISAPPROPRIATION OF PROPERTY. (a) *Caregiver.* 1. When a CBRF receives a report of an allegation of abuse or neglect of a resident, or misappropriation of property, the CBRF shall take immediate steps to ensure the safety of all residents.

2. The CBRF shall investigate and document any allegation of abuse or neglect of a resident, or misappropriation of property by a caregiver. If the CBRF's investigation concludes that the alleged abuse, or neglect of a resident or misappropriation of property meets the definition of abuse or neglect of a resident, or of misappropriation of property, the CBRF shall report the incident to the department on a form provided by the department, within 7 calendar days from the date the CBRF knew or should have known about the abuse, neglect, or misappropriation of property. The CBRF shall maintain documentation of any investigation.

Note: For copies of the report form, contact the Division of Quality Assurance, Office of Caregiver Quality at P.O. Box 2969, Madison WI 53701-2969 or at dhs.wisconsin.gov/caregiver/index.htm.

(b) *Non-caregiver or resident.* When there is an allegation of abuse or neglect of a resident, or misappropriation of property by a non-caregiver or resident, the CBRF shall follow the elder abuse reporting requirements under s. 46.90, Stats., or the adult at risk requirements under s. 55.043, Stats., whichever is applicable.

(c) *Other reporting.* Filing a report under sub. (1) or (2) does not relieve the licensee or other person of any obligation to report an incident to any other authority, including law enforcement and the coroner.

(3) INVESTIGATING INJURIES OF UNKNOWN SOURCE. (a) A CBRF shall investigate any of the following:

1. An injury that was not observed by any person.

2. The source of an injury to a resident that cannot be adequately explained by the resident.

3. An injury to a resident that appears suspicious because of the extent of the injury or the location of the injury on the resident.

(b) The CBRF shall maintain documentation of each investigation of an injury referenced under par. (a). The CBRF shall report the incident as required under sub. (2).

(4) OTHER REPORTING AND NOTIFICATION REQUIREMENTS. A CBRF shall send a written report to the department within 3 working days after any of the following occurs:

(a) Any time a resident's whereabouts are unknown, except those instances when a resident who is competent chooses not to disclose his or her whereabouts or location to the CBRF, the CBRF shall notify the local law enforcement authority immediately upon discovering that a resident is missing. This reporting requirement does not apply to residents under the jurisdiction of government correctional agencies or persons recovering from substance abuse.

(b) Any time law enforcement personnel are called to the CBRF as a result of an incident that jeopardizes the health, safety, or welfare of residents or employees. The CBRF's report to the department shall provide a description of the circumstances requiring the law enforcement intervention. This reporting requirement does not apply to residents under the jurisdiction of government correctional agencies.

(c) Any incident or accident resulting in serious injury requiring hospital admission or emergency room treatment of a resident.

(d) A catastrophe occurs resulting in damage to the CBRF.

(e) A fire occurs on the premises of the CBRF.

(f) Any time the CBRF must evacuate and temporarily relocate residents and employees from the CBRF for reasons other than a fire drill.

(5) NOTIFICATION OF CHANGES AFFECTING A RESIDENT. (a) The CBRF shall immediately notify the resident's legal representative and the resident's physician when there is an incident or injury to

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the resident or a significant change in the resident's physical or mental condition.

(b) The CBRF shall immediately notify the resident's legal representative when there is an allegation of physical, sexual or mental abuse, or neglect of a resident. The CBRF shall notify the resident's legal representative within 72 hours when there is an allegation of misappropriation of property.

(c) The CBRF shall give the resident or the resident's legal representative a 30-day written notice of any change in services available or in charges for services that will be in effect for more than 30 days.

(6) DOCUMENTATION. All written reports required under this section shall include, at a minimum, the time, date, place, individuals involved, details of the occurrence, and the action taken by the provider to ensure residents' health, safety and well-being.

History: CR 07-095; cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.13 General records, retention and posting.

(1) GENERAL RECORDS. The CBRF shall maintain documentation of all of the following:

(a) Investigations and reports of all allegations of abuse or neglect of a resident, or misappropriation property as required under s. DHS 83.12 (2).

(b) Investigations and reports of all injuries of unknown source as required under s. DHS 83.12 (3).

(c) Employees' schedules as required under s. DHS 83.36 (2).

(d) Maintenance of the heating system as required under s. DHS 83.46 (1) (c).

(e) Flue maintenance as required under s. DHS 83.46 (1) (e).

(f) Results of the annual well water testing as required under s. DHS 83.46 (3), if the CBRF does not use a public water supply.

(g) Dates, times and total evacuation times of quarterly fire drills as required under s. DHS 83.47 (2) (d).

(h) Residents' evacuation time and type of assistance as required under s. DHS 83.47 (2) (d).

(i) Results of the annual fire inspection as required under s. DHS 83.47 (3).

(j) Results of the CBRF's smoke and heat detection system testing as required under s. DHS 83.48 (3).

(k) Results of testing and maintenance of the smoke and heat detection system in a building with multiple occupancies as required under s. DHS 83.57 (1) (c).

(2) RECORDS RETENTION. (a) The CBRF shall retain all records required under this chapter for 2 years, unless otherwise specified under pars. (b) to (d).

(b) Resident records shall be retained for 7 years following the date of a resident's final discharge.

(c) Employee records shall be retained for 3 years following an employee's separation from employment at the CBRF.

(d) Dated menus shall be retained for 60 days.

(3) POSTING. The CBRF shall post all of the following:

(a) CBRF license, any statement of deficiency, notice of revocation and any other notice of enforcement action as required under s. DHS 83.14 (2) (h).

(b) House rules, resident rights and grievance procedures as required under s. DHS 83.32 (2) (b).

(c) The poster provided by the board on aging and long term care ombudsman program as required under s. DHS 83.33 (4).

(d) Activity schedule as required under s. DHS 83.38 (1) (c).

(e) The CBRF's exit diagram as required under s. DHS 83.47 (2) (b).

(f) Emergency phone numbers as required under s. DHS 83.47 (2) (h).

History: CR 07-095; cr. Register January 2009 No. 637, eff. 4-1-09.

Subchapter III — Personnel

DHS 83.14 Licensee. (1) QUALIFICATIONS. (a) A licensee shall be at least 21 years of age and be fit and qualified under s. 50.03 (4), Stats., and s. DHS 83.07.

(b) A licensee shall meet the caregiver background requirements under s. 50.065, Stats., and ch. DHS 12.

(2) RESPONSIBILITIES. (a) The licensee shall ensure the CBRF and its operation comply with all laws governing the CBRF.

(b) The licensee shall report any change in client group in writing to the department at least 30 days in advance and may not implement the change until the licensee receives written approval from the department.

(c) The licensee shall report any change in capacity or class and may not implement the change until the licensee receives written approval from the department.

(d) The licensee shall provide to each resident, or the resident's legal representative, referral agency and third party payer, a 30-day written notice of any change in size, class or client group.

(e) The licensee shall notify the department within 7 days after there is a change in the administrator.

(f) The licensee shall ensure a copy of this chapter is in the CBRF.

(g) The licensee shall provide, in a format approved by the department, information required by the department to assess the facility's compliance with s. 55.14, Stats., relating to involuntary administration of psychotropic medication to a resident.

(h) The licensee shall post the CBRF license, any statement of deficiency, notice of revocation and any other notice of enforcement action in a public area that is visually and physically available. A statement of deficiency shall remain posted for 90 days following receipt. Notices of revocation and other notices of enforcement action shall remain posted until a final determination is made.

(i) The licensee shall make available the results of all department license renewal surveys, monitoring visits and any complaint investigations for the preceding 2 years when requested by any current or prospective resident, resident's legal representative, case manager or family member.

(j) The licensee may not permit the existence or continuation of any condition which is or may create a substantial risk to the health, safety or welfare of any resident.

(k) The licensee shall ensure that the presence of other occupants does not adversely affect the health, safety or welfare of residents.

History: CR 07-095; cr. Register January 2009 No. 637, eff. 4-1-09; correction in (1) (b) made under s. 13.92 (4) (b) 7., Stats., Register January 2009 No. 637.

DHS 83.15 Administrator. (1) QUALIFICATIONS. The administrator of a CBRF shall be at least 21 years of age and exhibit the capacity to respond to the needs of the residents and manage the complexity of the CBRF. The administrator shall have any one of the following qualifications:

(a) An associate degree or higher from an accredited college in a health care related field.

(b) A bachelor's degree in a field other than in health care from an accredited college and one year experience working in a health care related field having direct contact with one or more of the client groups identified under s. DHS 83.02 (16).

(c) A bachelor's degree in a field other than in health care from an accredited college and have successfully completed a department-approved assisted living administrator's training course.

(d) At least 2 years experience working in a health care related field having direct contact with one or more of the client groups identified under s. DHS 83.02 (16) and have successfully completed a department-approved assisted living administrator's training course.

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(e) A valid nursing home administrator's license issued by the department of regulation and licensing.

(2) Persons who are the qualified administrator of record with the department of a CBRF on April 1, 2009, shall be exempt from the qualification requirements specified under sub. (1).

(3) **RESPONSIBILITIES.** (a) The administrator shall supervise the daily operation of the CBRF, including but not limited to, resident care and services, personnel, finances, and physical plant. The administrator shall provide the supervision necessary to ensure that the residents receive proper care and treatment, that their health and safety are protected and promoted and that their rights are respected.

(b) The administrator shall be responsible for the training and competency of all employees.

(c) A qualified resident care staff shall be designated as in charge whenever the administrator is absent from the CBRF.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.16 Employee. (1) Each employee shall have the skills, education, experience and ability to fulfill the employee's job requirements.

(2) Resident care staff shall be at least 18 years old.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.17 Hiring and employment. (1) **CAREGIVER BACKGROUND CHECK.** At the time of hire, employment or contract and every 4 years after, the licensee shall conduct and document a caregiver background check following the procedures in s. 50.065, Stats., and ch. DHS 12. A licensee shall not employ, contract with or permit a person to reside at the CBRF if the person has been convicted of the crimes or offenses, or has a governmental finding of misconduct, found in s. 50.065, Stats., and ch. DHS 12, Appendix A, unless the person has been approved under the department's rehabilitation process as defined in ch. DHS 12.

(2) **EMPLOYEE HEALTH COMMUNICABLE DISEASE CONTROL.** (a) The CBRF shall obtain documentation from a physician, physician assistant, clinical nurse practitioner or a licensed registered nurse indicating all employees have been screened for clinically apparent communicable disease including tuberculosis. Screening for tuberculosis shall be conducted using centers for disease control and prevention standards. The screening and documentation shall be completed within 90 days before the start of employment. The CBRF shall keep screening documentation confidential, except the department shall have access to the screening documentation for verification purposes.

(b) Employees shall be re-screened for clinically apparent communicable disease as described in par. (a) based on the likelihood of exposure to communicable disease, including tuberculosis.

(c) A person who has a communicable disease shall not be permitted to work or be present in the CBRF if the disease would present a risk to the health or safety of residents.

Note: For information from the center for disease control and prevention regarding screening for tuberculosis go to <http://www.cdc.gov/>

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09; corrections in (1) made under s. 13.92 (4) (b) 7., Stats., Register January 2009 No. 637.

DHS 83.18 Employee records. (1) A separate record for each employee shall be maintained, kept current, and at a minimum, include:

(a) A written job description including duties, responsibilities and qualifications required for the employee.

(b) Beginning date of employment.

(c) Educational qualifications for administrators.

(d) A completed caregiver background check following procedures under s. 50.065, Stats., and ch. DHS 12.

(e) Documentation of training, or exemption verification.

(2) Employee records shall be available upon request at the CBRF for review by the department.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09; correction in (1) (d) made under s. 13.92 (4) (b) 7., Stats., Register January 2009 No. 637.

Subchapter IV — Orientation and Training

DHS 83.19 Orientation. Before an employee performs any job duties, the CBRF shall provide each employee with orientation training which shall include all of the following:

(1) Job responsibilities.

(2) Prevention and reporting of resident abuse, neglect and misappropriation of resident property.

(3) Information regarding assessed needs and individual services for each resident for whom the employee is responsible.

(4) Emergency and disaster plan and evacuation procedures under s. DHS 83.47 (2).

(5) CBRF policies and procedures.

(6) Recognizing and responding to resident changes of condition.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.20 Department-approved training.

(1) **APPROVED TRAINING.** (a) Training for standard precautions, fire safety, first aid and choking, and medication administration and management shall be approved by the department or designee and shall be provided by trainers approved by the department or designee. Approvals for training plans and trainers for standard precautions, fire safety, first aid and choking, and medication administration and management issued before April 1, 2009, shall expire April 1, 2010.

(b) The CBRF shall maintain documentation of the training in par. (a), including the trainer approval number, the name of the employee, training topic and the date training was completed.

(2) **APPROVED COURSES.** (a) *Standard precautions.* All employees who may be occupationally exposed to blood, body fluids or other moist body substances, including mucous membranes, non-intact skin, secretions, and excretions except sweat, whether or not they contain visible blood shall successfully complete training in standard precautions before the employee assumes any responsibilities that may expose the employee to such material.

(b) *Fire safety.* Within 90 days after starting employment, all employees shall successfully complete training in fire safety.

(c) *First aid and choking.* Within 90 days after starting employment, all employees shall successfully complete training in first aid and procedures to alleviate choking.

(d) *Medication administration and management.* Any employee who manages, administers or assists residents with prescribed or over-the-counter medications shall complete training in medication administration and management prior to assuming these job duties.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.21 All employee training. The CBRF shall provide, obtain or otherwise ensure adequate training for all employees in all of the following:

(1) **RESIDENT RIGHTS.** Training shall include general rights of residents including rights as specified under s. DHS 83.32 (3). Training shall be provided as applicable under ss. 50.09 and 51.61 and chs. 54, 55, and 304, Stats., and ch. DHS 94, depending on the legal status of the resident or service the resident is receiving. Specific training topics shall include house rules, coercion, retaliation, confidentiality, restraints, self-determination, and the CBRF's complaint and grievance procedures. Residents' rights training shall be completed within 90 days after starting employment.

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(2) CLIENT GROUP. (a) Training shall be specific to the client group served and shall include the physical, social and mental health needs of the client group. Specific training topics shall include, as applicable: characteristics of the client group served, activities, safety risks, environmental considerations, disease processes, communication skills, nutritional needs, and vocational abilities. Client group specific training shall be completed within 90 days after starting employment.

(b) In a CBRF serving more than one client group, employees shall receive training for each client group.

(3) RECOGNIZING, PREVENTING, MANAGING AND RESPONDING TO CHALLENGING BEHAVIORS. Specific training topics shall include, as applicable: elopement, aggressive behaviors, destruction of property, suicide prevention, self-injurious behavior, resident supervision, and changes in condition. Challenging behaviors training shall be completed within 90 days after starting employment.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09; correction in (1) made under s. 13.92 (4) (b) 7., Stats., Register January 2009 No. 637.

DHS 83.22 Task specific training. The CBRF shall provide, obtain or otherwise ensure adequate training for employees performing job duties in all of the following:

(1) ASSESSMENT OF RESIDENTS. All employees responsible for resident assessment shall successfully complete training in the assessment of residents prior to assuming these job duties. Specific training topics shall include: assessment methodology, assessment of changes in condition, sources of assessment information, and documentation of the assessment.

(2) INDIVIDUAL SERVICE PLAN DEVELOPMENT. All employees responsible for service plan development shall successfully complete training in individual service plan development prior to assuming these job duties. Specific training topics shall include: identification of the resident's needs and desired outcomes, development of goals and interventions, service plan evaluation and review of progress.

(3) PROVISION OF PERSONAL CARE. All employees responsible for providing assistance with activities of daily living shall successfully complete training prior to assuming these job duties. Specific training topics shall include, as appropriate: bathing, eating, dressing, oral hygiene, nail and foot care, toileting and incontinence care, positioning and body alignment, and mobility and transferring.

(4) DIETARY TRAINING. All employees performing dietary duties shall complete dietary training within 90 days after assuming these job duties. Specific training topics shall include: determining nutritional needs, menu planning, food preparation and food sanitation.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.23 Employee supervision. Until an employee has completed all required training, the employee shall be directly supervised by the administrator or by qualified resident care staff.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.24 Exemptions. **(1) EXEMPTIONS FOR COMPLETED TRAINING.** Employees who have completed department-approved training in standard precautions, fire safety, first aid and choking, and medication administration and management prior to or on April 1, 2009, or who receive such training within one year after April 1, 2009, shall be exempt from the training specified under s. DHS 83.20 (2).

(2) GENERAL EXEMPTIONS. A practitioner, licensed pharmacist, registered nurse or licensed practical nurse is exempt from training specified in ss. DHS 83.20 (2) (a), (c) and (d), 83.21 and 83.22.

(3) EXEMPTIONS FROM STANDARD PRECAUTIONS TRAINING. Except as stated in subs. (1) and (2), the following individuals are exempt from training in standard precautions:

- (a) Emergency medical technicians.

(b) Employees who can provide documentation that they have had training from a regulated health care entity in the practice of standard precautions within the previous year.

(c) A nurse aide certified after 1999 and in good standing on the Wisconsin Nurse Aide Registry.

(4) EXEMPTIONS FROM FIRE SAFETY TRAINING. Except as stated under sub. (1), firefighters are exempt from training in fire safety.

(5) EXEMPTIONS FROM FIRST AID AND CHOKING TRAINING. Except as stated in subs. (1) and (2), the following individuals are exempt from training in first aid and choking:

- (a) Emergency medical technicians.

(b) Student nurses who have successfully completed related training.

(6) EXEMPTIONS FROM MEDICATION ADMINISTRATION AND MANAGEMENT TRAINING. Except as stated under subs. (1) and (2), the following individuals are exempt from medication administration and management training:

(a) Nurse aides who have completed a medication aide training program and are in good standing on the Wisconsin Nurse Aide Registry.

(b) Student nurses currently enrolled in a nursing program that has successfully completed a medication administration course.

(c) Other licensed health care persons whose licensure and scope of practice allows medication administration.

Note: See ch. DHS 129 for medication aide training standards.

(7) EXEMPTIONS FROM CLIENT GROUP TRAINING, RESIDENT RIGHTS TRAINING, AND CHALLENGING BEHAVIOR TRAINING. Except as specified under subs. (1) and (2), all of the following individuals are exempt from client group training, resident rights training and challenging behavior training:

- (a) Licensed nursing home administrators.

(b) Substance abuse counselors as defined under s. RL 160.02 (26).

(c) Employees with a degree in social work, psychology or a similar human services field.

(d) Student nurses who have successfully completed related courses.

(e) A nurse aide in good standing on the Wisconsin Nurse Aide Registry.

(8) EXEMPTION FROM PROVISION OF PERSONAL CARE TRAINING. A nurse aide in good standing on the Wisconsin Nurse Aide Registry is exempt from provision of personal care training.

(9) EXEMPTIONS FROM ASSESSMENT AND INDIVIDUAL SERVICE PLAN DEVELOPMENT TRAINING. Except under subs. (1) and (2), the following individuals are exempt from assessment and individual service plan development training:

- (a) Licensed nursing home administrators

(b) Substance abuse counselors as defined under s. RL 160.02 (26).

(c) Employees with a degree in social work, psychology or a similar human services field.

(d) Student nurses who have successfully completed related courses.

(10) EXEMPTIONS FROM DIETARY TRAINING. Except under subs. (1) and (2), the following individuals are exempt from training in determining dietary needs, menu planning, food preparation and sanitation:

- (a) Registered dietitians.

(b) Employees whose only responsibility is delivering meals.

(c) Employees who have completed an associate in applied science degree in culinary arts.

- (d) A certified dietary manager.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.25 Continuing education. The administrator and resident care staff shall receive at least 15 hours per calendar

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year of continuing education beginning with the first full calendar year of employment. Continuing education shall be relevant to the job responsibilities and shall include, at a minimum, all of the following:

- (1) Standard precautions.
- (2) Client group related training.
- (3) Medications.
- (4) Resident rights.
- (5) Prevention and reporting of abuse, neglect and misappropriation.
- (6) Fire safety and emergency procedures, including first aid.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.26 Documentation. (1) The CBRF shall maintain documentation of all employee training under s. DHS 83.21 and task specific training under s. DHS 83.22 and shall include the name of the employee, the name of the instructor, the dates of training, a description of the course content, and the length of the training.

(2) Employee orientation and hours of continuing education shall be documented in the employee's file.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

Subchapter V — Admission, Retention and Discharge

DHS 83.27 Limitations on admissions and retentions. (1) **LICENSE CAPACITY.** (a) No CBRF may have more residents, including respite care residents, than the maximum bed capacity on its license.

(b) The CBRF may not have more than 4 residents, or 10% of the licensed capacity, whichever is greater, who need more than 3 hours of nursing care per week or care above intermediate level nursing care for not more than 30 days unless the facility has obtained a waiver from the department or the department has received a request for a waiver from the CBRF and the department's decision is pending.

(2) **ADMISSION AND RETENTION LIMITATIONS.** A CBRF may not admit or retain any of the following persons:

(a) A person who has an ambulatory or cognitive status that is not compatible with the license classification under s. DHS 83.04 (2).

(b) A person who is destructive of property or self, or who is physically or mentally abusive to others, unless the CBRF has sufficient resources to care for such an individual and is able to protect the resident and others.

(c) A person who has physical, mental, psychiatric or social needs that are not compatible with the client group as described in the CBRF's program statement.

(d) A person who needs more than 3 hours of nursing care per week except for a temporary condition needing more than 3 hours of nursing care per week for no more than 30 days. If the CBRF requests a waiver or variance, the department may grant a waiver or variance to this requirement, as described under s. DHS 83.03, if the following conditions are met:

1. The resident's clinical condition is stable and predictable, does not change rapidly, and medical orders are unlikely to involve frequent changes or complex modifications and the resident's clinical condition is one that may be treatable, or the resident has a long-term condition needing more than 3 hours of nursing care per week for more than 30 days.

2. The resident is otherwise appropriate for the level of care provided in the CBRF.

3. The services needed to treat the resident's condition are available in the CBRF.

(e) A person whose condition requires 24-hour supervision by a registered nurse or licensed practical nurse.

(f) A person whose condition requires care above intermediate level nursing care.

(g) A person who requires a chemical or physical restraint except as authorized under s. 50.09 (1) (k), Stats.

(h) A person who is incapacitated, as defined under s. 50.06 (1), Stats., unless the person has a health care agent under a valid and properly activated power of attorney for health care under ch. 155, Stats., or a court appointed guardian under ch. 54, Stats., except for the admission of an incapacitated individual who does not have such a legal representative, and who is admitted directly from the hospital according to the provision of s. 50.06, Stats.

(i) A person who resides in a CBRF licensed for 16 or more residents, and has been found incompetent under ch. 54, Stats., and does not have a court-ordered protective placement under s. 55.12, Stats.

(3) **ADMISSION OF MINORS.** The CBRF may not admit a person under 18 years of age without written approval of the department and only if any of the following apply:

(a) The CBRF is also licensed under ch. DCF 57 as a group foster care home or under ch. DCF 52 as a residential care center for children and youth.

(b) The minor has been waived to an adult court under s. 938.18, Stats.

(c) The minor is the child of an adult resident. When the minor child of an adult resident resides in a CBRF, all of the following shall apply:

1. The adult resident retains custody and control of the child.

2. The CBRF shall have written policies related to the presence of minors in the CBRF, including policies on parental responsibility, school attendance and any care, treatment or services provided to the minors by the CBRF.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09; corrections in (3) (a) made under 13.92 (4) (b) 7., Stats., Register January 2009 No. 637.

DHS 83.28 Admission procedures. (1) **ASSESSMENT.** The CBRF shall assess each resident before admission as required under s. DHS 83.35 (1).

(2) **SERVICES AND CHARGES.** Before or at the time of admission, the CBRF shall provide written information regarding services available and charges for those services as required in s. DHS 83.29 (1).

(3) **ADMISSION AGREEMENT.** Before or at the time of admission, the CBRF shall provide the admission agreement as required under s. DHS 83.29 (2).

(4) **HEALTH SCREENING.** (a) *Resident health screening.* 1. Within 90 days before or 7 days after admission, a physician, physician assistant, clinical nurse practitioner or a licensed registered nurse shall screen each person admitted to the CBRF for clinically apparent communicable disease, including tuberculosis, and document the results of the screening.

2. Screening for tuberculosis and all immunizations shall be conducted using centers for disease control and prevention standards.

3. The CBRF shall maintain the screening documentation in each resident's record.

(b) *Respite care health screening.* 1. Within 90 days before or 7 days after admission for persons in respite care who will reside in the CBRF for more than 7 days, a physician, physician assistant, clinical nurse practitioner or a licensed registered nurse shall screen each respite care person for clinically apparent communicable disease, including tuberculosis, and document the results of the screening.

2. If the person did not provide evidence of health screening required under subd. 1., prior to the second admission in a calendar year of a person in respite care, a physician, physician assistant, clinical nurse practitioner or a licensed registered nurse shall screen each respite care person for clinically apparent communi-

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cable disease, including tuberculosis, and document the results of the screening.

3. Screening for tuberculosis and all immunizations shall be conducted using centers for disease control and prevention standards.

4. The CBRF shall maintain the screening documentation for each respite care person.

(5) **TEMPORARY SERVICE PLAN.** Upon admission, the CBRF shall develop a temporary service plan as required under s. DHS 83.35 (2).

(6) **RESIDENT RIGHTS, GRIEVANCE PROCEDURE AND HOUSE RULES.** Before or at the time of admission, the CBRF shall provide and explain resident rights, the house rules of the CBRF as required under s. DHS 83.32 (2), and the grievance procedure, including written information regarding the names, addresses and telephone numbers of all resident advocacy groups serving the client groups in the facility, including the long term care ombudsman program and the protection and advocacy services of Disability Rights Wisconsin, Inc.

(7) **ADVANCED DIRECTIVES.** At the time of admission, the CBRF shall determine if the resident has executed an advanced directive. An advanced directive describes, in writing, the choices about treatments the resident may or may not want and about how health care decisions should be made for the resident if the resident becomes incapacitated and cannot express their wishes. A copy of the document shall be maintained in the resident record as required under s. DHS 83.42 (1) (p). A CBRF may not require an advanced directive as a condition of admission or as a condition of receiving any health care service. An advanced directive may be a living will, power of attorney for health care, or a do-not-resuscitate order under chs. 154 or 155, Stats., or other authority as recognized by the courts of this state.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.29 Admission agreement. (1) SERVICES AND CHARGES. (a) *Definition.* In this section, "entrance fee" means a payment required for admission to the CBRF that is in addition to the fees for services and security deposit.

(b) *Written information regarding services and charges.* Before or at the time of admission, the CBRF shall provide written information regarding services available and the charges for those services to each resident, including persons admitted for respite care, or the resident's legal representative. This information shall include any charges for services not covered by the daily or monthly rate, any entrance fees, assessment fees and security deposit.

(c) *Written notice of any change in services or in charges.* The CBRF shall give the resident or the resident's legal representative a 30-day written notice of any change in services available or in charges for services that will be in effect for more than 30 days.

(2) **ADMISSION AGREEMENT REQUIREMENTS.** The admission agreement shall be given in writing and explained orally in the language of the prospective resident or legal representative. Admission is contingent on a person or that person's legal representative signing and dating an admission agreement. The admission agreement shall include all of the following:

(a) An accurate description of the basic services provided, the rate charged for those services and the method of payment.

(b) Information about all additional services offered, but not included in the basic services. The CBRF shall provide a written statement of the fees charged for each of these services.

(c) The method for notifying residents of a change in charges for services.

(d) Terms for resident notification to the CBRF of voluntary discharge. This paragraph does not apply to a resident in the custody of a government correctional agency.

(e) Terms for refunding charges for services paid in advance, entrance fees, or security deposits in the case of transfer, death or voluntary or involuntary discharge.

(f) A statement that the amount of the security deposit may not exceed one month's fees for services, if a security deposit is collected.

(g) Terms for holding and charging for a resident's room during a resident's temporary absence. This paragraph does not apply to a resident in the custody of a government correctional agency.

(h) Reasons and notice requirements for involuntary discharge or transfer, including transfers within the CBRF. This paragraph does not apply to a resident in the custody of a government correctional agency.

(3) **REFUNDS.** (a) The CBRF shall return all refunds due a resident under the terms of the admission agreement within 30 days after the date of discharge.

(b) During the first 6 months following the date of initial admission, the CBRF shall refund the entire entrance fee when the resident is discharged or when the resident meets the terms for notification to the CBRF of voluntary discharge as contained in the CBRF's admission agreement.

(4) **CONFLICT WITH THIS CHAPTER.** No statement of the admission agreement may be in conflict with any part of this chapter, unless the department has granted a waiver or variance of a provision of this chapter.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.30 Family care information and referral. If the secretary of the department has certified that a resource center, as defined under s. DHS 10.13 (42), is available for the facility under s. DHS 10.71, the CBRF shall provide information to prospective residents and refer residents and prospective residents to an aging and disability resource center as required under s. 50.035 (4m) to (4p), Stats., and s. DHS 10.73.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09; corrections made under 13.92 (4) (b) 7., Stats., Register January 2009 No. 637.

DHS 83.31 Discharge or transfer. (1) APPLICABILITY. This section applies to all resident discharges except for persons in respite care.

(2) **EMERGENCY OR TEMPORARY TRANSFERS.** If a condition or action of a resident requires the emergency transfer of the resident to a hospital, nursing home or other facility for treatment not available from the CBRF, the CBRF may not involuntarily discharge the resident unless the requirements under sub. (4) are met.

(3) **DISCHARGE OR TRANSFER INITIATED BY RESIDENT.** (a) Any competent resident may initiate transfer or discharge at any time in accordance with the terms of the admission agreement if the resident is not in the custody of a government correctional agency, committed under s. 51.20, Stats., or under a court-ordered protective placement under s. 55.12, Stats.

(b) If a resident found incompetent under ch. 54, Stats., protests the resident's admission or continued stay, the licensee or designee shall immediately notify the legal representative and the county protective services agency to obtain a determination about whether to discharge the resident under s. 55.055 (3), Stats.

(4) **DISCHARGE OR TRANSFER INITIATED BY CBRF.** (a) *Notice and discharge requirements.* 1. Before a CBRF involuntarily discharges a resident, the licensee shall give the resident or legal representative a 30 day written advance notice. The notice shall explain to the resident or legal representative the need for and possible alternatives to the discharge. Termination of placement initiated by a government correctional agency does not constitute a discharge under this section.

2. The CBRF shall provide assistance in relocating the resident and shall ensure that a living arrangement suitable to meet the needs of the resident is available before discharging the resident.

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(b) *Reasons for involuntary discharge.* The CBRF may not involuntarily discharge a resident except for any of the following reasons:

1. Nonpayment of charges, following reasonable opportunity to pay.
2. Care is required that is beyond the CBRF's license classification.
3. Care is required that is inconsistent with the CBRF's program statement and beyond that which the CBRF is required to provide under the terms of the admission agreement and this chapter.
4. Medical care is required that the CBRF cannot provide.
5. There is imminent risk of serious harm to the health or safety of the resident, other residents or employees, as documented in the resident's record.
6. As provided under s. 50.03 (5m), Stats.
7. As otherwise permitted by law.

(c) *Notice requirements.* Every notice of involuntary discharge shall be in writing to the resident or resident's legal representative and shall include all of the following:

1. A statement setting forth the reason and justification for discharge listed under par. (b).
2. A statement that the resident or the resident's legal representative may ask the department to review the involuntary discharge by sending a written request within 10 days of receipt of the discharge statement to the department's regional office with a copy to the CBRF. The notice shall state that the request must provide an explanation why the discharge should not take place.
3. The name, address and telephone number of the department's regional office director.
4. The name, address and telephone number of the regional office of the board on aging and long term care's ombudsman program. For residents with developmental disability or mental illness, the notice shall include the name, address and telephone number of the protection and advocacy agency designated under s. 51.62 (2) (a), Stats.

(d) *Department review of discharge.* 1. A resident may request department review of an involuntary discharge within 10 days of receipt of such notice. If a timely request is sent to the department, the CBRF may not proceed with an involuntary discharge until the department has completed its review and notified the resident or the resident's legal representative and the CBRF of the department's decision.

2. Within 7 days after receiving the copy of the letter requesting the review, the CBRF may provide to the department's regional office, additional information justifying the discharge.

3. The department shall complete its review within 10 days after the CBRF submits additional information under subd. 2., if any, and will notify in writing the resident or the resident's legal representative and the CBRF of the department's decision.

Note: See Appendix A for the addresses and phone numbers of the Department's Division of Quality Assurance, Bureau of Assisted Living regional offices.

(e) *Coercion and retaliation prohibited.* Any form of coercion to discourage or prevent a resident or legal representative from requesting a department review of any notice of involuntary discharge is prohibited. Any form of retaliation against a resident or legal representative for requesting a department review, or against an employee who assists in submitting a request for department review or otherwise provides assistance with a request for review, is prohibited.

(5) **REMOVAL OR DISPOSAL OF RESIDENT'S BELONGINGS.** If a resident or the resident's representative does not remove the resident's belongings within 30 days after discharge, the CBRF may dispose of the belongings. This subsection does not apply to a resident who absconds from the CBRF and who is under the custody of a government correctional agency or under the legal jurisdiction

of a criminal court and for whom there is an apprehension order.

(6) **DISBURSEMENT OF FUNDS.** (a) The CBRF shall return all refunds due a resident within 30 days of the date of discharge as required under s. DHS 83.29 (3).

(b) The CBRF shall return all resident funds held by the CBRF to the resident or the resident's legal representative within 14 days after discharge as required under s. DHS 83.34 (4).

(7) **INFORMATION PROVIDED AT THE TIME OF TRANSFER OR DISCHARGE.** At the time of a resident's transfer or discharge, the CBRF shall inform the resident or the resident's legal representative and the resident's new place of residence that all of the following information is available in writing upon request:

(a) *Facility information.* The name and address of the CBRF, the dates of admission, and discharge or transfer, and the name and address of a person to contact for additional information.

(b) *Medical providers.* Names and addresses of the resident's physician, dentist and other medical care providers.

(c) *Emergency contacts.* Names and addresses of the resident's relatives or legal representative to contact in case of emergency.

(d) *Other contacts.* Names and addresses of the resident's significant social or community contacts.

(e) *Assessment and individual service plan.* The resident's assessment and individual service plan, or a summary of each.

(f) *Medical needs.* The resident's current medications and dietary, nursing, physical and mental health needs, if not included in the assessment or individual service plan.

(g) *Reason for discharge or transfer.* The reason for the resident's discharge or transfer.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

Subchapter VI — Resident Rights and Protections

DHS 83.32 Rights of residents. (1) LEGAL RIGHTS. (a) Section 50.09, Stats., establishes specific rights for CBRF residents and prescribes mechanisms to resolve resident complaints and to hold the CBRF licensee accountable for violating resident rights. Other statutes, such as s. 51.61 and chs. 54, 55, 155 and 304, Stats., and ch. DHS 94 may further clarify or condition a particular resident's right, depending on the legal status of the resident or a service received by the resident. The licensee shall comply with all applicable statutes and rules.

(b) The licensee shall protect the civil rights of residents as these rights are defined in the U.S. Constitution, the Wisconsin Constitution, the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Section 504 of the Rehabilitation Act of 1973, the Fair Housing Amendments Act of 1988, the Americans with Disabilities Act of 1990, and all other applicable federal and state statutes.

(2) **EXPLANATION OF RESIDENT RIGHTS, GRIEVANCE PROCEDURE AND HOUSE RULES.** (a) Before the admission agreement is signed by the resident or the resident's legal representative or at the time of admission, the CBRF shall provide a copy of and explain resident rights, the grievance procedure under s. DHS 83.33 and the house rules to the person being admitted, the person's legal representative, and family members of the person. The resident or the resident's legal representative shall be asked to sign a statement to acknowledge the receipt of an explanation of resident rights. The CBRF shall document the date and to whom the information was provided.

(b) The CBRF shall post copies of resident rights, grievance procedure and house rules in a prominent public place available to residents, employees and guests.

(3) **RIGHTS OF RESIDENTS.** Any form of coercion to discourage or prevent a resident or the resident's legal representative from exercising any of the rights under this subchapter is prohibited. Any form of retaliation against a resident or the resident's legal

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representative for exercising any of the rights in this subchapter, or against an employee or any other person who assists a resident or the resident's legal representative in the exercise of any of the resident rights in this subchapter, is prohibited. The rights established under this subsection do not apply to a resident in the legal custody of a government correctional agency, except as determined by a government correctional agency. In addition to the rights under s. 50.09, Stats., each resident shall have all of the following rights:

(a) *Communications.* Make and receive telephone calls within reasonable limits and in privacy. The CBRF shall provide at least one non-pay telephone for resident use. The CBRF may require residents who make long distance calls to do so at the resident's own expense.

(b) *Confidentiality.* Confidentiality of health and personal information and records, and the right to approve or refuse release of that information to any individual outside the CBRF, except when the resident is transferred to another facility or as required by law or third-party payment contracts and except as provided in s. 146.82 (2) and (3), Stats. The CBRF shall make the record available to the resident or the resident's legal representative for review. Copies of the record shall be made available within 30 days, if requested in writing, at a cost no greater than the cost of reproduction.

(c) *Free from labor.* Not be required by the CBRF to perform labor that is of any financial benefit to the CBRF. The CBRF may require personal housekeeping of the resident without compensation if it is for therapeutic purposes and is part of, and clearly identified in the resident's individual service plan.

(d) *Freedom from mistreatment.* Be free from physical, sexual and mental abuse and neglect, and from financial exploitation and misappropriation of property.

(e) *Freedom from seclusion.* Be free from seclusion.

(f) *Freedom from chemical restraints.* Be free from all chemical restraints.

(g) *Freedom from physical restraints.* Be free from physical restraints except upon prior review and approval by the department upon written authorization from the resident's primary physician or advanced practice nurse prescriber as defined in s. N 8.02 (2). The department may place conditions on the use of a restraint to protect the health, safety, welfare and rights of the resident.

(h) *Receive medication.* Receive all prescribed medications in the dosage and at intervals prescribed by a practitioner. The resident has the right to refuse medication unless the medication is court ordered.

(i) *Prompt and adequate treatment.* Receive prompt and adequate treatment that is appropriate to the resident's needs.

(j) *Treatment options.* Participate in the planning of care and treatment, be fully informed of care and treatment options and have the right to refuse any form of care or treatment unless the care or treatment has been ordered by a court.

(k) *Self-determination.* Make decisions relating to care, activities, daily routines and other aspects of life which enhance the resident's self reliance and support the resident's autonomy and decision making.

(L) *Least restrictive environment.* Have the least restrictive conditions necessary to achieve the purposes of the resident's admission. The CBRF may not impose a curfew, rule or other restriction on a resident's freedom of choice.

(m) *Recording, filming, photographing.* Not be recorded, filmed or photographed without informed, written consent by the resident or resident's legal representative. The CBRF may take a photograph for identification purposes. The department may photograph, record or film a resident pursuant to an inspection or investigation under s. 50.03 (2), Stats., without his or her written informed consent.

(n) *Safe environment.* Live in a safe environment. The CBRF shall safeguard residents from environmental hazards to which it is likely the residents will be exposed, including both conditions that are hazardous to anyone and conditions that are hazardous to the resident because of the residents' conditions or disabilities.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09; correction in (1) (a) made under 13.92 (4) (b) 7., Stats., Register January 2009 No. 637.

DHS 83.33 Grievance procedure. (1) A CBRF shall have a written grievance procedure and shall provide a copy to each resident and the resident's legal representative before or at the time of admission. The grievance procedure shall specify all of the following:

(a) A resident or any individual on behalf of the resident may file a grievance with the CBRF, the department, the resident's case manager, if any, the board on aging and long term care, Disability Rights Wisconsin, Inc., or any other organization providing advocacy assistance. The resident and the resident's legal representative shall have the right to advocate throughout the grievance procedure. The written grievance procedure shall include the name, address and phone number of organizations providing advocacy for the client groups served, and the name, address and phone number of the department's regional office that licenses the CBRF.

(b) Any person investigating the facts associated with a grievance shall not have had any involvement in the issue leading to the grievance.

(c) Any form of coercion to discourage or prevent any individual from filing a grievance or in retaliation for having filed a grievance is prohibited.

(d) The CBRF shall provide a written summary of the grievance, the findings and the conclusions and any action taken to the resident or the resident's legal representative and the resident's case manager. The CBRF shall maintain a copy of the investigation.

(2) The CBRF shall follow the grievance procedures under s. DHS 94.40 for any resident placed or funded by a county department of social services under s. 46.21 or 46.22, Stats., a county department of human services under s. 46.23, Stats., a county department of community programs, under s. 51.42, Stats., a county department of developmental disabilities services under s. 51.437, Stats., or for any resident who is receiving protective services or protective placement under ch. 55, Stats.

(3) The CBRF shall assist residents with grievance procedures as required under this section.

(4) The CBRF shall post in a conspicuous location in the CBRF a poster provided by the board on aging and long term care ombudsman program, concerning the long-term care ombudsman program under s. 16.009 (2) (b), Stats. The poster shall include the name, address and telephone number of the ombudsman's office. This requirement does not apply to those facilities exclusively licensed to serve clients under the jurisdiction of a government correctional agency.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09; correction in (2) made under s. 13.92 (4) (b) 7., Stats., Register January 2009 No. 637.

DHS 83.34 Resident funds. (1) **AUTHORIZATION.** Except for a resident in the custody of a government correctional agency, the CBRF may not obtain, hold, or spend a resident's funds without written authorization from the resident or the resident's legal representative. The resident or the resident's legal representative may limit or revoke authorization at any time by writing a statement that shall specify the effective date of the limitation or revocation.

(2) **FUNDS UNDER \$200.** (a) Upon written authorization, a CBRF may hold no more than \$200 cash for use by the resident. The CBRF may not commingle residents' funds with the funds or property of the CBRF, the licensee, employees, or relatives of the licensee or employees.

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(b) The CBRF shall have a legible, accurate accounting method for tracking residents' cash and shall include a record of any deposits, disbursements and earnings made to or on behalf of the resident. The CBRF shall provide a receipt to the resident or the resident's legal representative for all expenditures in excess of \$20.

(c) The CBRF shall provide a written report of the resident's account to the resident or the resident's legal representative at least every 6 months. Upon written request from the resident or resident's legal representative, the CBRF shall provide a written monthly account of any financial transactions.

(3) FUNDS IN EXCESS OF \$200. A CBRF receiving more than \$200 of personal funds from a resident shall deposit funds in excess of \$200 in an interest-bearing account in the resident's name in a savings institution insured by an agency of, or a corporation chartered by, this state or the United States.

(4) FINAL ACCOUNTING. Within 14 days after a resident is discharged, the CBRF shall provide to the resident or the resident's legal representative a written final accounting of all the resident's funds held by the CBRF and shall disburse any remaining money to the resident or to the resident's legal representative.

(5) LIMITATIONS. (a) No CBRF licensee, administrator or employee may do any of the following:

1. Sell to or purchase from a resident or prospective resident, real or personal property.
2. Accept or borrow money from a resident or prospective resident.
3. Be appointed as power of attorney for any resident unless related to the resident by blood or adoption.
4. Accept gifts from a resident except for gifts of nominal value.

(b) No CBRF, nor any employee on behalf of the CBRF, may accept donations from any resident, except those made by a competent resident or made with the knowledge of the resident's legal representative acting within the scope of their authority and only for the benefit of the CBRF. No employee may accept personal gifts, including monetary gifts, from a resident.

(6) SECURITY DEPOSIT. (a) If a CBRF collects a security deposit, the funds shall be deposited in an interest-bearing account insured by an agency of, or a corporation chartered by, this state or the United States.

(b) The amount of the security deposit shall not exceed one month's fees for services.

(c) The CBRF shall keep the security deposit account separate from other funds of the CBRF.

(d) Within 30 days after the resident's discharge, the security deposit and any interest earned shall be paid to the person who made the security deposit. Interest paid shall be the actual interest earned.

(7) TRANSFER OF FINANCIAL RESPONSIBILITY. When a change of ownership of the CBRF occurs, the transferor shall:

(a) Notify the transferee in writing of any financial relationships between the transferor and residents.

(b) Notify each resident or legal representative in writing where any financial relationship exists between the transferor and residents of the pending transfer.

(8) AUDIT. A CBRF handling residents' funds under this section is subject to an accounting audit as ordered by the department. The accounting audit shall be completed by a certified public accountant paid for by the CBRF.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

Subchapter VII — Resident Care and Services

DHS 83.35 Assessment, individual service plan and evaluations. **(1) ASSESSMENT.** (a) *Scope.* The CBRF shall assess each resident's needs, abilities, and physical and mental

condition before admitting the person to the CBRF, when there is a change in needs, abilities and condition, and at least annually. The assessment shall include all areas listed under par. (c). This requirement includes individuals receiving respite care in the CBRF. For emergency admissions the CBRF shall conduct the assessment within 5 days after admission.

(b) *Information gathering.* The CBRF shall base the assessment on the current diagnostic, medical and social history obtained from the person's health care providers, case manager and other service providers. Other service providers may include a psychiatrist, psychologist, licensed therapist, counselor, occupational therapist, physical therapist, pharmacist or registered nurse. The administrator or designee shall hold a face-to-face interview with the person and the person's legal representative, if any, and family members, as appropriate, to determine what the person views as his or her needs, abilities, interests, and expectations.

(c) *Areas of assessment.* The assessment, at a minimum, shall include all of the following areas applicable to the resident:

1. Physical health, including identification of chronic, short-term and recurring illnesses, oral health, physical disabilities, mobility status and the need for any restorative or rehabilitative care.
2. Medications the resident takes and the resident's ability to control and self-administer medications.
3. Presence and intensity of pain.
4. Nursing procedures the resident needs and the number of hours per week of nursing care the resident needs.
5. Mental and emotional health, including the resident's self-concept, motivation and attitudes, symptoms of mental illness and participation in treatment and programming.
6. Behavior patterns that are or may be harmful to the resident or other persons, including destruction of property.
7. Risks, including, choking, falling, and elopement.
8. Capacity for self-care, including the need for any personal care services, adaptive equipment or training.
9. Capacity for self-direction, including the ability to make decisions, to act independently and to make wants or needs known.
10. Social participation, including interpersonal relationships, communication skills, leisure time activities, family and community contacts and vocational needs.

(d) *Assessment documentation.* The CBRF shall prepare a written report of the results of the assessment and shall retain the assessment in the resident's record.

(2) TEMPORARY SERVICE PLAN. Upon admission, the CBRF shall prepare and implement a written temporary service plan to meet the immediate needs of the resident, including persons admitted for respite care, until the individual service plan under sub. (3) is developed and implemented.

(3) COMPREHENSIVE INDIVIDUAL SERVICE PLAN. (a) *Scope.* Within 30 days after admission and based on the assessment under sub. (1), the CBRF shall develop a comprehensive individual service plan for each resident. The individual service plan shall include all of the following:

1. Identify the resident's needs and desired outcomes.
2. Identify the program services, frequency and approaches under s. DHS 83.38 (1) the CBRF will provide.
3. Establish measurable goals with specific time limits for attainment.
4. Specify methods for delivering needed care and who is responsible for delivering the care.

(b) *Development.* The CBRF shall involve the resident and the resident's legal representative, as appropriate, in developing the individual service plan and the resident or the resident's legal representative shall sign the plan acknowledging their involvement in, understanding of and agreement with the plan. If a resident has

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a medical prognosis of terminal illness, a hospice program or home health care agency, as identified in s. DHS 83.38 (2) shall, in cooperation with the CBRF, coordinate the development of the individual service plan and its approval under s. DHS 83.38 (2) (b). The resident's case manager, if any, and any health care providers, shall be invited to participate in the development of the service plan.

(c) *Implementation.* The CBRF shall implement and follow the individual service plan as written.

(d) *Individual service plan review.* Annually or when there is a change in a resident's needs, abilities or physical or mental condition, the individual service plan shall be reviewed and revised based on the assessment under sub. (1). All reviews of the individual service plan shall include input from the resident or legal representative, case manager, resident care staff, and other service providers as appropriate. The resident or resident's legal representative shall sign the individual service plan, acknowledging their involvement in, understanding of and agreement with the individual service plan.

(e) *Documentation of review.* The CBRF shall document any changes made as a result of the comprehensive individual service plan review.

(f) *Availability.* All employees who provide resident care and services shall have continual access to the resident's assessment and individual service plan.

(4) SATISFACTION EVALUATION. At least annually, the CBRF shall provide the resident and the resident's legal representative the opportunity to complete an evaluation of the resident's level of satisfaction with the CBRF's services. The evaluation shall be completed on either a department form or a form developed by the CBRF and approved by the department.

Note: The CBRF Resident Satisfaction Evaluation form can be found at <http://dhs.wisconsin.gov/forms/1/oaqa/oaqa2372.pdf> or by contacting the Division of Quality Assurance Regional Office listed in Appendix A.

(5) EVALUATION OF RESIDENT EVACUATION LIMITATIONS. (a) *Initial evaluation.* The CBRF shall evaluate each resident within 3 days of the resident's admission to determine whether the resident is able to evacuate the CBRF within 2 minutes in an unsprinklered CBRF and 4 minutes in a sprinklered CBRF without any help or verbal or physical prompting, and what type of limitations that resident may have that prevent the resident from evacuating the CBRF within the applicable period of time. A form provided by the department shall be used for the evaluation. The resident's evaluation shall be retained in the resident's record.

Note: The Resident Evacuation Assessment form can be found at <http://dhs.wisconsin.gov/forms/1/OQA/oaqa2373.pdf> or by contacting the Division of Quality Assurance Regional Office listed in Appendix A.

(b) *Evaluation update.* The CBRF shall evaluate each resident's mental or physical capability to respond to a fire alarm at least annually or when there is a change in the resident's mental or physical capability to respond to a fire alarm.

(c) *Notice to employees.* The CBRF shall notify each employee who works on the premises of the CBRF of each resident who needs more than 2 minutes to evacuate the CBRF and the type of assistance the resident needs to be evacuated.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.36 Staffing requirements. (1) ADEQUATE STAFFING. (a) The CBRF shall provide employees in sufficient numbers on a 24-hour basis to meet the needs of the residents.

(b) The CBRF shall ensure all of the following:

1. An administrator or other designated qualified resident care staff in charge is on the premises of the CBRF daily to ensure the CBRF is providing safe and adequate care, treatment and services.

2. At least one qualified resident care staff is present in the CBRF when one or more residents are present in the CBRF.

3. At least one qualified resident care staff is on duty and awake if at least one resident in the CBRF is in need of supervi-

sion, intervention or services on a 24-hour basis to prevent, control or improve the resident's constant or intermittent mental or physical condition that may occur or may become critical at any time including residents who are at risk of elopement, who have dementia, who are self-abusive, who become agitated or emotionally upset or who have changing or unstable health conditions that require close monitoring.

4. At least one qualified resident care staff is on duty and awake if the evacuation capability of at least one resident is 4 minutes or more.

(c) When all of the residents are away from the CBRF, at least one qualified resident care staff shall be on call to provide coverage if a resident needs to return to the CBRF before the regularly scheduled return time. The CBRF shall provide each resident or the off-site location a means of contacting the resident care staff who is on call.

(2) STAFFING SCHEDULE. The CBRF shall maintain a current written schedule for staffing the CBRF. The schedule shall include each employee's full name, job assignment and time worked.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.37 Medications. (1) GENERAL REQUIREMENTS. (a) *Practitioner's order.* There shall be a written practitioner's order in the resident's record for any prescription medication, over-the-counter medication or dietary supplements administered to a resident.

(b) *Medications.* Prescription medications shall come from a licensed pharmacy or a physician and shall have a label permanently attached to the outside of the container. Over-the-counter medications maintained in the manufacturer's container shall be labeled with the resident's name. Over-the-counter medications not maintained in the manufacturer's container shall be labeled by a pharmacist.

(c) *Packaging.* The CBRF shall develop and implement a policy that identifies the medication packaging system used by the CBRF. Any pharmacy selected by the resident whose medications are administered by CBRF employees shall meet the medication packaging system chosen by the CBRF. This does not apply to residents who self administer medications.

(d) *Documentation.* As required in s. DHS 83.42 (1) (m), when a resident is taking prescription or over-the-counter medications or dietary supplements, the resident's record shall include a current list of the type and dosage of medications or supplements, directions for use, and any change in the resident's condition.

(e) *Medication Regimen Review.* 1. If residents' medications are administered by a CBRF employee, the CBRF shall arrange for a pharmacist or a physician to review each resident's medication regimen. This review shall occur within 30 days before or 30 days after the resident's admission, whenever there is a significant change in medication, and at least every 12 months.

2. At least annually, the CBRF shall have a physician, pharmacist, or registered nurse conduct an on-site review of the CBRF's medication administration and medication storage systems.

3. The CBRF shall obtain a written report of findings under subs. 1. and 2., and address any irregularities for appropriate action. When the review is done by someone other than the prescribing practitioner, the prescribing practitioner shall receive a copy of the report when there are irregularities identified with the resident's medication regimen, which may need physician involvement to address.

(f) *More than one practitioner.* 1. When an employee of the CBRF administers a resident's medication, the CBRF shall provide a list of the resident's current medications to all practitioners. If this information is not provided before a prescription is written, the CBRF shall update the resident's primary practitioner or pharmacist before the administration of any new medication.

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2. When a resident self administers medications, the CBRF shall provide a list of the resident's current medications for the resident to provide to all practitioners.

(g) *Disposition of medications.* 1. When a resident is discharged, the resident's medications shall be sent with the resident.

2. If a resident's medication has been changed or discontinued, the CBRF may retain a resident's medication for no more than 30 days unless an order by a physician or a request by a pharmacist is written every 30 days to retain the medication.

3. The CBRF shall develop and implement a policy for disposing unused, discontinued, outdated, or recalled medications in compliance with federal, state and local standards or laws. The CBRF shall arrange for the stored medications to be destroyed in compliance with standard practices. Medications that cannot be returned to the pharmacy shall be separated from other medication in current use in the facility and stored in a locked area, with access limited to the administrator or designee. The administrator or designee and one other employee shall witness, sign, and date the record of destruction. The record shall include the medication name, strength and amount.

(h) *Scheduled psychotropic medications.* When a psychotropic medication is prescribed for a resident, the CBRF shall do all of the following:

1. Ensure the resident is reassessed by a pharmacist, practitioner or registered nurse, as needed, but at least quarterly for the desired responses and possible side effects of the medication. The results of the assessments shall be documented in the resident's record as required under s. DHS 83.42 (1) (n).

2. Ensure all resident care staff understands the potential benefits and side effects of the medication.

(i) *As needed (PRN) psychotropic medication.* When a psychotropic medication is prescribed on an as needed basis for a resident, the CBRF shall do all of the following:

1. The resident's individual service plan shall include the rationale for use and a detailed description of the behaviors which indicate the need for administration of PRN psychotropic medication.

2. The administrator or qualified designee shall monitor at least monthly for the inappropriate use of PRN psychotropic medication, including but not limited to, use contrary to the individual service plan, presence of significant adverse side effects, use for discipline or staff convenience, or contrary to the intended use.

3. Documentation in the resident's record shall include the rationale for use, description of behaviors requiring the PRN psychotropic medication, the effectiveness of the medication, the presence of any side effects, and monitoring for inappropriate use for each PRN psychotropic medication given.

(j) *Proof-of-use record.* The CBRF shall maintain a proof-of-use record for schedule II drugs, subject to 21 USC 812 (c), and Wisconsin's uniform controlled substances act, ch. 961, Stats., that contains the date and time administered, the resident's name, the practitioner's name, dose, signature of the person administering the dose, and the remaining balance of the drug. The administrator or designee shall audit, sign and date the proof-of-use records on a daily basis.

(k) *Medication error or adverse reaction.* 1. The CBRF shall document in the resident's record any error in the administration of prescription or over-the-counter medication, known adverse drug reaction or resident refusal to take medication.

2. The CBRF shall report all errors in the administration of medication and any adverse drug reactions to a licensed practitioner, supervising nurse or pharmacist immediately. Unless otherwise directed by the prescribing practitioner, the CBRF shall report to the prescribing practitioner, supervising nurse or pharmacist as soon as possible after the resident refuses a medication for 2 consecutive days.

(L) *Medication information.* The CBRF shall make available written information to resident care staff on the purpose and side effects of medications taken by residents.

(2) MEDICATION ADMINISTRATION. (a) *Self-administered by resident.* 1. The resident shall self-administer prescribed and over-the-counter medications and dietary supplements, unless the resident has been found incompetent under ch. 54, Stats., or does not have the physical or mental capacity to self-administer as determined by the resident's physician, or the resident requests in writing that CBRF employees manage and administer medication.

2. Except as specified under sub. (4), when a resident self-administers medications, prescribed and over-the-counter medications and dietary supplements shall remain under the control of the resident. The CBRF shall provide a secure place for the storage of medications in the resident's room.

3. A resident with the mental and physical capacity to develop increased independence in medication administration shall receive self-administration instruction.

(b) *Medication administration supervised by a registered nurse, practitioner or pharmacist.* When medication administration is supervised by a registered nurse, practitioner or pharmacist, the CBRF shall ensure all of the following:

1. The registered nurse, practitioner or pharmacist coordinates, directs and inspects the administration of medications and the medication administration system.

2. The registered nurse, practitioner or pharmacist participates in the resident's assessment under s. DHS 83.35 (1) and development and review of the individual service plan under s. DHS 83.35 (3) regarding the resident's medical condition and the goals of the medication regimen.

(c) *Medication administration not supervised by a registered nurse, practitioner or pharmacist.* When medication administration is not supervised by a registered nurse, practitioner or pharmacist, the CBRF shall arrange for a pharmacist to package and label a resident's prescription medications in unit dose. Medications available over-the-counter may be excluded from unit dose packaging requirements, unless the physician specifies unit dose.

(d) *Documentation of medication administration.* As required under s. DHS 83.42 (1) (o), at the time of medication administration, the person administering the medication or treatment shall document in the resident record the name, dosage, date and time of medication taken or treatments performed and initial the medication administration record. Any side effects observed by the employee or symptoms reported by the resident shall be documented. The need for any PRN medication and the resident's response shall be documented.

(e) *Other administration.* Injectables, nebulizers, stomal and enteral medications, and medications, treatments or preparations delivered vaginally or rectally shall be administered by a registered nurse or by a licensed practical nurse within the scope of their license. Medication administration described under sub. (2) (e) may be delegated to non-licensed employees pursuant to s. N 6.03 (3).

(3) MEDICATION STORAGE. (a) *Original containers.* The CBRF shall keep medications in the original containers and not transfer medications to another container, unless the CBRF complies with all of the following:

1. Transfer of medications from the original container to another container shall be done by a practitioner, registered nurse, or pharmacist. Transfer of medication to another container may be delegated to other personnel by a practitioner, registered nurse or pharmacist.

2. If a medication is administered by CBRF employees and the medication is transferred from the original container by a registered nurse, or practitioner or other personnel who were delegated the task, the CBRF shall have a legible label on the new con-

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tainer that includes, at a minimum, the resident's name, medication name, dose and instructions for use. The CBRF shall maintain the original pharmacy container until the transferred medication is gone.

(b) *Unit dose packaging.* For use during unplanned or non-routine events or activities, employees who have completed medication administration training as required in s. DHS 83.20 (2) (d) may transfer unit doses of medications into packages for the resident.

(c) *Administered by facility.* The CBRF shall keep medicine cabinets locked and the key available only to personnel identified by the CBRF.

(d) *Refrigeration.* Medications stored in a common refrigerator shall be properly labeled and stored in a locked box.

(e) *Proximity to chemicals.* The CBRF may not store prescription and over-the-counter medications or dietary supplements next to chemicals or other contaminants.

(f) *Internal and external application.* The CBRF shall physically separate medications for internal consumption from medications for external application.

(g) *Controlled substances.* The CBRF shall provide separately locked and securely fastened boxes or drawers or permanently fixed compartments within the locked medications area for storage of schedule II drugs subject to 21 USC 812 (c), and Wisconsin's uniform controlled substances act, ch. 961, Stats.

(4) **EXEMPTIONS.** Any CBRF that exclusively serves residents in the custody of a government correctional agency or who is alcohol or drug dependent is exempt from the requirements in sub. (2) (a) 2. These facilities may store medications in a central, secure area and employees may observe and record the self administration of medication as described in the resident's individual service plan.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.38 Program services. (1) SERVICES. As appropriate, the CBRF shall teach residents the necessary skills to achieve and maintain the resident's highest level of functioning. In addition to the assessed needs as determined under s. DHS 83.35 (1), the CBRF shall provide or arrange services adequate to meet the needs of the residents in all of the following areas:

(a) *Personal care.* Personal care services shall be designed and provided to allow a resident to increase or maintain independence.

(b) *Supervision.* The CBRF shall provide supervision appropriate to the resident's needs.

(c) *Leisure time activities.* The CBRF shall provide a daily activity program to meet the interests and capabilities of the residents. Employees shall encourage and promote resident participation in the activity program. The CBRF shall develop and post the activity schedule in an area available to residents.

(d) *Community activities.* The CBRF shall provide information and assistance to facilitate participation in personal and community activities. The CBRF shall develop, update and make available to all residents, monthly schedules and notices of community activities, including costs.

(e) *Family and social contacts.* The CBRF shall encourage and assist residents in maintaining family and social contacts.

(f) *Communication skills.* The CBRF shall provide services to meet the resident's communication needs.

(g) *Health monitoring.* 1. The CBRF shall monitor the health of residents and make arrangements for physical health, oral health or mental health services unless otherwise arranged for by the resident. Each resident shall have an annual physical health examination completed by a physician, unless seen by a physician more frequently.

2. When indicated, a CBRF shall observe residents' food and fluid intake and acceptance of diet. The CBRF shall report signifi-

cant deviations from normal food and fluid intake patterns to the resident's physician or dietician.

3. The CBRF shall document communication with the resident's physician and other health care providers, and shall record any changes in the resident's health or mental health status in the resident's record.

(h) *Medication administration.* The CBRF shall provide medication administration appropriate to the resident's needs.

(i) *Behavior management.* The CBRF shall provide services to manage resident's behaviors that may be harmful to themselves or others.

(j) *Information and referral.* The CBRF shall provide information and referral to appropriate community services.

(k) *Transportation.* The CBRF shall provide or arrange for transportation when needed for medical appointments, work, educational or training programs, religious services and for a reasonable number of community activities of interest. CBRFs that transport residents shall develop and implement written policies addressing the safe and secure transportation of residents.

(2) **TERMINALLY ILL RESIDENT SERVICES.** (a) A CBRF may provide more than 3 hours of nursing care per week to a resident who has a terminal illness and who requires the care under the following conditions:

1. The resident's primary care provider is a licensed hospice or licensed home health agency.

2. The resident's primary care provider is not a licensed hospice or licensed home health agency, and the CBRF obtains a waiver from the department.

(b) When a resident who requires less than 3 hours of nursing care or the resident's legal representative waives the services of a hospice program or home health agency, the CBRF shall develop and implement the written plan of care required under par. (c), which the resident's primary physician shall review and approve.

(c) The primary care provider and the CBRF shall develop a written, coordinated plan of care before the initiation of palliative or supportive care.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.39 Infection control program. (1) The licensee shall establish and follow an infection control program based on current standards of practice to prevent the development and transmission of communicable disease and infection.

(2) The infection control program shall include written policies and training for employees.

(3) Employees shall follow hand washing procedures according to centers for disease control and prevention standards.

(4) Other occupants shall comply with infection control requirements as stated in s. DHS 83.17 (2).

(5) The CBRF shall ensure that pets are vaccinated against diseases, including rabies, if appropriate.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.40 Oxygen storage. Oxygen storage shall be in an area that is well ventilated and safe from environmental hazards, tampering, or the chance of accidental damage to the valve stem. If oxygen cylinders are in use, oxygen cylinders shall be secured in an upright position. If stored upright, cylinders must be secured. If stored horizontally, cylinders shall be on a level surface where they will remain stationary.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.41 Food service. (1) GENERAL REQUIREMENTS. (a) *Food supply.* 1. The CBRF shall maintain a food supply that is adequate to meet the needs of the residents.

2. Food shall be obtained from acceptable sources.

(b) *Equipment.* The CBRF shall store equipment and utensils in a clean manner and shall maintain all utensils and equipment in good repair.

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(c) *Dishwashing*. 1. Whether washed by hand or mechanical means, all equipment and utensils shall be cleaned using separate steps for pre-washing, washing, rinsing and sanitizing. Residential dishwashers may be used in kitchens serving 20 or fewer residents. Kitchens serving 21 or more residents shall have a commercial type dishwasher for washing and sanitizing equipment and utensils in accordance with standard practices described in the Wisconsin food code.

2. A 3-compartment sink for washing, rinsing and sanitizing utensils, with drain boards at each end is required for all large facilities with a central kitchen. Washing, rinsing and sanitizing procedures shall be in accordance with standard practices described in the Wisconsin food code. In addition, a single compartment sink or overhead spray wash located adjacent to the soiled drain board is required for pre-washing.

(2) NUTRITION. (a) *Diets*. 1. The CBRF shall provide each resident with palatable food that meets the recommended dietary allowance based on current dietary guidelines for Americans and any special dietary needs of each resident.

2. The CBRF shall provide a therapeutic diet as ordered by a resident's physician.

Note: To obtain information on the Dietary Guidelines for Americans, see www.usda.gov/cnpp.

(b) *Meals*. 1. The CBRF shall provide meals that are routinely served family or restaurant style, unless contraindicated in a resident's individual service plan or for short-term medical needs.

2. The CBRF shall provide at least 3 meals a day, unless otherwise arranged according to the program statement or the resident's individual service plan. A nutritious snack shall be offered in the evening or more often as consistent with the resident's dietary needs.

3. If a resident is away from the CBRF during the time a meal is served, the CBRF shall offer food to the resident on the resident's return.

(c) *Menus*. 1. The CBRF shall make reasonable adjustments to the menu for individual resident's food likes, habits, customs, conditions and appetites.

2. The CBRF shall prepare weekly written menus and shall make menus available to residents. Deviations from the planned menu shall be documented on the menu.

(3) SANITATION AND SAFETY. (a) *Infection control*. 1. Each employee who prepares or serves food shall be free from open, infected wounds and from communicable disease and shall maintain clean and safe work habits.

2. The CBRF shall provide hand-washing facilities in the kitchen for use by food handlers. Use of a common towel is prohibited.

(b) *Food safety*. Whether food is prepared at the CBRF or off-site, the CBRF shall store, prepare, distribute and serve food under sanitary conditions for the prevention of food borne illnesses, including food prepared off-site, according to all of the following:

1. The CBRF shall refrigerate all foods requiring refrigeration at or below 40°F. Food shall be covered and stored in a sanitary manner.

2. The CBRF shall maintain freezing units at 0°F or below. Frozen foods shall be packaged, labeled and dated.

3. The CBRF shall hold hot foods at 140°F or above and shall hold cold foods at 40°F or below until serving.

(c) *Reporting*. The CBRF is required under s. DHS 145.04 to report suspected incidents of food borne disease to the local public health officer.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09; correction to (3) (c) made under s. 13.92 (4) (b) 7., Stats., Register January 2009 No. 637.

DHS 83.42 Resident records. (1) The CBRF shall maintain a record for each resident at the CBRF. Each record shall include all of the following:

(a) Resident's full name, sex, date of birth, admission date and last known address.

(b) Name, address and telephone number of designated contact person, and legal representative, if any.

(c) Medical, social, and, if any, psychiatric history.

(d) Current personal physician, if any.

(e) Results of the initial health screening under s. DHS 83.28 (4) and subsequent health examinations under s. DHS 83.38 (1) (g).

(f) Admission agreement.

(g) Documentation of significant incidents and illnesses, including the dates, times and circumstances.

(h) Assessments completed as required under s. DHS 83.35 (1).

(i) Individual service plan and resident satisfaction evaluation.

(j) Documentation to accurately describe the resident's condition, significant changes in condition, changes in treatment and response to treatment.

(k) Results of the annual resident evacuation evaluation.

(L) Documentation of sensory impairment of the resident as required under s. DHS 83.48 (7) (b).

(m) Summary of discharge information as required under s. DHS 83.31 (7).

(n) Any department-approved resident-specific waiver, variance or approval.

(o) Physician's orders or other authorized practitioner's written orders for nursing care, medications, rehabilitation services and therapeutic diets.

(p) Current list of the type and dosage of medications or supplements.

(q) Results of the quarterly psychotropic medication assessments as required in s. DHS 83.37 (1) (h) 1.

(r) Documentation of administration of all medications, supplements, the person administering the medications or supplements, any side effects observed by the employee or symptoms reported by the resident, the need for PRN medications and the resident's response, refusal to take medication, omissions of medications, errors in the administration of medications and drug reactions.

(s) Photocopy of any court order or other document authorizing another person to speak or act on behalf of the resident, or other legal documents as required which affect the care and treatment of a resident.

(t) Documentation of all other services including rehabilitation services, treatments and therapeutic diets.

(u) Completed notice of pre-admission assessment requirement under s. DHS 83.30.

(v) Nursing care procedures and the amount of time spent each week by a registered nurse or licensed practical nurse in performing the nursing care procedures. Only time actually spent by the nurse with the resident may be included in the calculation of nursing care time.

(w) Plans of care for terminally ill residents.

(x) Date, time and circumstances of the resident's death, including the name of the person to whom the body is released.

(2) The licensee shall ensure all resident records are adequately safeguarded against destruction, loss or unauthorized access or use.

(3) The employee in charge on each work shift shall have a means to access resident records.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

Subchapter VIII — Physical Environment

DHS 83.43 Furnishings and equipment. (1) ENVIRONMENT. The CBRF shall provide a living environment that is

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safe, clean, comfortable, and homelike. All common dining and living areas shall contain furnishings appropriate to the intended use of the room.

(2) BEDROOM FURNISHINGS. If a resident does not provide the resident's own bedroom furnishings, the CBRF shall provide all of the following:

- (a) A bed of proper size to ensure the resident's comfort.
- (b) A clean, comfortable mattress covered with a mattress pad and when necessary, waterproof covering.
- (c) A clean, comfortable pillow, bedspread and blankets adequate for the season.
- (d) Clean sheets, pillowcases, towels and washcloths adequate to meet the needs of the resident.

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DHS 83.44 Housekeeping services. (1) LAUNDRY. (a) *Laundry area.* The CBRF shall make an adequate number of laundry appliances available to residents who choose to do their own laundry. The CBRF shall have a laundry area to sort, process and store clean and soiled laundry and shall handle clean and soiled laundry so as to prevent the spread of infection.

(b) *Storage and transport.* The CBRF shall have separate clean and dirty laundry storage areas or containers. Storage containers shall be clean, leak-proof and have a tight fitting lid. The CBRF may not transport, wash or rinse soiled laundry in areas used for food preparation, serving or storage.

(c) *Clothes dryers.* The CBRF shall enclose any clothes dryer having a rated capacity of more than 37,000 Btu/hour in a one-hour fire resistive rated enclosure. If the clothes dryer requires a vent, the CBRF shall use dryer vent tubing that is of rigid material with a fire rating that exceeds the temperature rating of the dryer. The dryer vent tubing shall be clean and maintained.

(2) CLEANLINESS. (a) The CBRF shall keep all rooms clean and shall make reasonable attempts to keep all rooms free from odors.

(b) All toilet and bathing areas, facilities and fixtures shall be clean and in good working order.

(c) Every interior floor, wall and ceiling shall be clean and in good repair.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.45 Building maintenance and site.

(1) MAINTENANCE. (a) *Exterior areas.* The CBRF shall maintain the yard, any fences, sidewalks, driveways and parking areas of the CBRF in good repair and free of hazards.

(b) *Building integrity.* The CBRF shall be structurally sound without visible evidence of structural failure or deterioration and shall be maintained in good repair.

(c) *Surface drainage.* The CBRF shall ensure that each courtyard, yard or other area on the premises of the CBRF is drained or graded to divert water away from the building.

(d) *Hazards.* The CBRF shall maintain each building in good repair and free of hazards.

(e) *Systems.* The CBRF shall maintain all electrical, mechanical, water supply, plumbing, fire protection and sewage disposal systems in a safe and functioning condition.

(f) *Furnishings.* The CBRF shall keep all furnishings clean, safe, and maintained in good repair.

(2) STORAGE. The CBRF shall maintain storage areas in a safe, dry and orderly condition.

(3) TOXIC SUBSTANCES. The CBRF shall ensure that cleaning compounds, polishes, insecticides and toxic substances are labeled and stored in a secure area.

(4) PEST CONTROL. The CBRF shall implement safe, effective procedures for control and extermination of insects, rodents and vermin.

(5) GARBAGE AND REFUSE. The CBRF shall dispose of garbage and refuse. Garbage and refuse in inside areas shall be kept in leak-proof, non-absorbent closed containers. Garbage and refuse in outside areas shall be in closed containers.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.46 Building support systems. (1) HEATING.

(a) A CBRF shall maintain comfortable and safe temperatures. The CBRF shall provide tempered air at all times to eliminate cold air drafts. The heating system shall be capable of maintaining temperatures of 74° F. in areas occupied by residents.

(b) The use of portable space heaters is prohibited except for Underwriters Laboratories listed electric heating equipment that is listed for permanent attachment to the wall. Portable space heaters shall have an automatic thermostatic control and shall be physically attached to a wall.

(c) The CBRF shall maintain the heating system in a safe and properly functioning condition. The CBRF shall ensure that a heating contractor or local utility company completes all of the following maintenance and makes available to the facility documentation of the maintenance performed:

- 1. An oil furnace shall be serviced at least once each year.
- 2. A gas furnace shall be serviced at least once every 3 years.
- 3. The CBRF shall have a chimney inspected at intervals corresponding with the heating system service under subd. 1. or 2.

(d) The CBRF may not use a fuel-fired heater on the premises of the CBRF unless the heater is properly vented to the outside.

(e) Any wood burning stove or fireplace shall have a flue separate from the flue used by a gas or oil fired furnace or boiler. The entire installation shall meet the requirements in NFPA 211. The CBRF shall have the wood burning or fireplace flue cleaned as often as necessary, but at least 2 times during each heating season. The CBRF shall make available documentation of the maintenance performed.

(f) Combustible materials shall not be placed within 3 feet of any furnace, boiler, water heater, fireplace or other similar equipment.

(g) The CBRF shall enclose any other open flame combustible fuel-burning device within a one hour fire rated assembly when sharing a common floor with a habitable room. A direct-vent appliance is exempt from this requirement.

(2) VENTILATION. (a) All rooms and areas shall be well ventilated. Ventilation is not required in a refrigerated storage room.

(b) A CBRF may not have transoms, transfer grills or louvers in bedroom walls or doors opening directly to a corridor.

(3) PUBLIC WATER SUPPLY. The CBRF shall use a public water supply when available. If a public water supply is not available, the CBRF shall have a well that is approved by the state department of natural resources. The CBRF shall have the well water tested at least annually by the state laboratory of hygiene or other laboratory approved under ch. DHS 165. The CBRF shall maintain documentation of annual testing results.

(4) ELECTRICAL. (a) *Installation and maintenance.* The CBRF shall be supplied with electrical service, wiring, outlets and fixtures, which shall be properly installed and maintained in good and safe working condition.

(b) *Service size.* The electrical service shall be of the proper size to handle the connected load.

(c) *Protection.* 1. 'Fuses and circuit breakers.' Tamper-proof fuses or circuit breakers not to exceed the ampere capacity of the smallest wire size in the circuit shall protect the branch circuits.

2. 'Ground fault interruption.' Ground fault interrupt protection shall be required for all outlets within 6 feet of a plumbing fixture, all outlets on the exterior of the CBRF and in the garage.

(d) *Minimum number of fixtures and outlets.* The CBRF shall have all of the following minimum number of fixtures and outlets:

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1. 'Light fixtures'. Every resident bedroom, bathroom, kitchen or kitchenette, dining room, laundry room and furnace room shall contain at least one approved or listed ceiling or wall-type electric light fixture equipped with sufficient lamps or tubes to provide at least 5 foot candles at floor level at the center of room. Where more than one fixture is used or required, the additional fixture or fixtures shall be equally spaced as far as is practical. A switched outlet may be substituted for a ceiling or wall fixture in resident bedrooms and dining rooms.

2. 'Minimum outlet ratios.' Electric duplex outlet receptacles shall be provided as follows:

a. Living room, dining room and bedroom, one per 75 square feet of floor area with a minimum of 2.

b. Kitchen, one per 8 lineal feet or fraction thereof, of counter-top and preparation area, including island-type areas. In addition, if a kitchen is used for dining purposes, one per 75 square feet of floor area. Separate outlets shall be provided for refrigerators.

c. Laundry room, minimum of one.

d. Toilet rooms, one, which may be part of the wall fixture if 72 inches or less from the floor.

e. Other habitable rooms, minimum of 2.

(e) *Outlets.* Electrical outlets shall be located to limit the use of extension cords. Extension cords shall not be used in lieu of permanent wiring.

(f) *Switches.* Switches or equivalent devices for turning on at least one light in each room or passageway shall be located to conveniently control the lighting in the area.

(g) *Temporary and exposed wiring.* All temporary wiring and exposed wiring, whether in use or abandoned, shall be removed.

History: CR 07-095; cr. Register January 2009 No. 637, eff. 4-1-09; correction in (3) made under s. 13.92 (4) (b) 7., Stats., Register January 2009 No. 637.

Subchapter IX — Safety

DHS 83.47 Fire safety requirements. (1) EVACUATION CAPABILITIES. (a) If the time it takes for any resident to evacuate is more than 2 minutes and up to 4 minutes, with or without employee assistance, the CBRF shall have all of the following:

1. Vertical smoke separation between all floors.
2. Rated stair enclosure as required under ch. Comm 61.
3. Externally monitored smoke detection system with back up battery supply as required under s. DHS 83.49 (2) (e), unless the CBRF is equipped with a sprinkler system as required under s. DHS 83.48 (8).

(b) If a resident has an evacuation time of 4 or more minutes, with or without employee assistance, the CBRF shall have all of the following:

1. Sprinkler system as required under s. DHS 83.48 (8).
2. Vertical smoke separation between all floors.
3. Rated stair enclosure as required under ch. Comm 61.
4. Twenty-four hour awake qualified resident care staff.

(c) If a resident cannot be safely evacuated from their bedroom as determined by the CBRF's assessment, the CBRF shall instruct the resident to remain in the resident's bedroom and the CBRF shall meet all of the following requirements:

1. Be sprinklered as required under s. DHS 83.48 (8).
2. Notify the local fire department and identify the specific residents using point of rescue, and provide an up-to-date floor plan identifying where those resident rooms are located.
3. Have vertical smoke separation between all floors.
4. Have 24 hour awake qualified resident care staff.

(2) EMERGENCY AND DISASTER PLAN. (a) *Written plan.* The CBRF shall have a written plan for responding to emergencies and disasters that is readily available to all employees. The plan shall

specify the responsibilities of employees. The plan shall include all of the following:

1. Procedures for orderly evacuation or other department-approved response during an emergency or disaster. The plan shall include procedures for any resident who refuses to follow evacuation or emergency procedures.

2. The CBRF's response to serious illness or accidents.

3. Procedures to follow when a resident is missing.

4. The CBRF's preparation for and response to severe weather including tornado and flooding.

5. A route to dry land when the CBRF is located in a flood plain.

6. Location of an emergency shelter for the residents.

7. A means of transporting residents to the emergency shelter.

8. How meals and medications will be provided to residents at the emergency shelter.

(b) *Exit diagram.* The disaster plan shall have an exit diagram that shall be posted on each floor of the CBRF used by residents in a conspicuous place where it can be seen by the residents. The diagram shall identify the exit routes from the floor, including internal horizontal exits under par. (f) when applicable, smoke compartments or a designated meeting place outside and away from the building when evacuation to the outside is the planned response to a fire alarm.

(c) *Emergency and disaster procedures.* Fire, tornado, flooding or other emergency or disaster procedures shall be clearly communicated to a new resident within 72 hours after admission.

(d) *Fire drills.* 1. Fire evacuation drills shall be conducted at least quarterly with both employees and residents. Drills shall be limited to the employees scheduled to work at that time. Documentation shall include the date and time of the drill and the CBRF's total evacuation time. The CBRF shall record residents having an evacuation time greater than the time allowed under s. DHS 83.35 (5) and the type of assistance needed for evacuation. Fire evacuation drills may be announced in advance.

2. At least one fire evacuation drill shall be held annually that simulates the conditions during usual sleeping hours. Fire evacuation drills may be announced in advance. Drills shall be limited to the employees scheduled to work during the residents' normal sleeping hours.

(e) *Other evacuation drills.* Tornado, flooding, or other emergency or disaster evacuation drills shall be conducted at least semi-annually.

(f) *Horizontal evacuation.* The CBRF shall have approval from the department before including horizontal evacuation in the emergency and disaster plan. CBRFs using horizontal evacuation shall document the total evacuation time of the fire zone evacuated.

(g) *Use of area of refuge.* The local fire department shall be made aware of the areas of refuge, if any, and the potential number of residents who would use the areas of refuge. Evacuation procedures involving fire department personnel shall be conducted at the option of the fire department. CBRFs using areas of refuge shall comply with construction requirements under s. DHS 83.51.

(h) *Posting of emergency phone numbers.* The phone numbers for emergency services shall be posted near phones used by CBRF employees.

(3) FIRE INSPECTION. The CBRF shall arrange for an annual inspection by the local fire authority or certified fire inspector and shall retain fire inspection reports for 2 years.

(4) FIRE EXTINGUISHER. (a) At least one portable dry chemical fire extinguisher with a minimum 2A, 10-B-C rating shall be provided on each floor of the CBRF. All fire extinguishers shall be maintained in readily usable condition. Inspections of the fire extinguisher shall be done by a qualified professional one year after initial purchase and annually thereafter. Each fire extin-

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guisher shall be provided with a tag documenting the date of inspection.

(b) A fire extinguisher shall be mounted on a wall or a post or in an unlocked wall cabinet used exclusively for that purpose. Fire extinguishers shall be clearly visible. The route to the fire extinguisher shall be unobstructed and the top of the fire extinguisher shall not be over 5 feet high. The extinguisher shall not be tied down, locked in a cabinet or placed in a closet or on the floor. Fire extinguishers on upper floors shall be located at the top of each stairway. Extinguishers shall be located so the travel distance between extinguishers does not exceed 75 feet. The extinguisher on the kitchen floor level shall be mounted in or near the kitchen.

(5) SMOKING. Each CBRF shall develop and implement a written policy on smoking. The policy shall designate areas where smoking is permitted, if any, and shall be clearly communicated to residents. Designated smoking areas shall be well ventilated or have an alternate means of eliminating smoke.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.48 Fire protection systems. (1) INTERCONNECTED SMOKE AND HEAT DETECTION SYSTEM. (a) Except as provided under sub. (2), the CBRF shall have an interconnected smoke detection system pursuant to s. 50.035 (2), Stats., and shall have an interconnected heat detection system to protect the entire CBRF so that if any detector is activated, an alarm audible throughout the building will be triggered.

(b) Smoke and heat detectors shall be installed and maintained in accordance with NFPA 72 National Fire Alarm Code and the manufacturer's recommendation. Smoke detectors powered by the CBRF's electrical system shall be tested by CBRF personnel according to manufacturer's recommendation, but not less than once every other month. CBRFs shall maintain documentation of tests and maintenance of the detection system.

(c) A CBRF shall receive approval from the department as required under s. 50.035 (2) (b), Stats., and s. DHS 83.63 (2) before installing a smoke and heat detection system.

(2) RADIO-TRANSMITTING SMOKE AND HEAT DETECTION SYSTEM. A small CBRF may use an Underwriters Laboratories listed radio-transmitting detection system that triggers an alarm audible throughout the building and that is properly safeguarded against deactivation.

(3) TESTING. (a) After the first year following installation, fire detection systems shall be inspected, cleaned and tested annually by certified or trained and qualified personnel in accordance with the specifications in NFPA 72 and the manufacturer's specifications and procedures.

(b) Sensitivity testing shall be performed at intervals in accordance with NFPA 72.

(c) All smoke and heat detectors suspected of exposure to a fire condition shall be inspected, cleaned and tested by a certified or trained and qualified person within 5 days after each exposure in accordance with the specifications in NFPA 72 and the manufacturer's specifications and procedures. Each detector shall operate within the manufacturer's intended response or it shall be replaced within 10 days after exposure to a fire condition.

(4) LOCATION. Pursuant to s. 50.035 (2) (b), Stats., all facilities shall have at least one smoke detector located at each of the following locations:

(a) At the top of every open stairway.

(b) On the hallway side of every enclosed stairway on each floor level.

(c) Spaced not more than 30 feet apart in every corridor, and not further than 15 feet from any wall or in accordance with the manufacturer's separation specifications.

(d) In each common use room, including a living room, dining room, family room, lounge and recreation room, but excluding a kitchen, bathroom or laundry room.

(e) In each bedroom.

(f) In all non-resident living areas, except the furnace, bathroom, kitchen and laundry room.

(g) Additional smoke detectors shall be located where wall projections from the ceiling or lintels exceed 8 inches.

(h) In the basement, or in each room of the basement except a furnace or laundry room.

(5) CONNECTION AND ACTIVATION. Smoke detectors in or near the living room of an apartment and smoke detectors in the bedrooms of an apartment shall be either connected to the main alarm system or to a separate annunciator on a panel. If a separate annunciator on a panel is used, there shall be an effective electronic means of notifying employees anywhere in the CBRF that a detector has been activated. Smoke detectors under this subsection shall activate an alarm in all of the resident bedrooms and the apartment.

(6) SPECIFIC LOCATIONS FOR HEAT DETECTORS. CBRFs shall have at least one heat detector integrated with the smoke detection system at all of the following locations or in accordance with the heat detector manufacturer's specifications:

(a) Kitchen.

(b) Attached garage.

(c) All enclosed compartments of the attic.

(d) Furnace room.

(e) Laundry room.

(7) SPECIAL EQUIPMENT FOR PERSONS WITH IMPAIRED HEARING OR VISION. (a) *Notification.* If any resident with impaired hearing or vision is unable to detect or respond to a fire emergency, the licensee shall ensure the appropriate audio, visual or vibrating notification alarms are installed in the resident's bedroom, in or near a living room in an apartment, and in each common area used by the resident.

(b) *Documentation.* The sensory impairment of the resident shall be noted in the resident's record and communicated to all employees within 3 days after admission or after determination of the impairment is made.

(8) SPRINKLER SYSTEMS. (a) *Types.* A CBRF shall have a sprinkler system if required under s. DHS 83.47 (1) (b) or 83.50. The types of sprinkler systems to be used are as follows:

1. A complete NFPA 13D residential sprinkler system shall be used in a CBRF licensed for 16 or fewer residents only when each room or compartment in the CBRF requires no more than 2 sprinkler heads. When an NFPA 13D sprinkler system is used it shall have a 30-minute water supply for at least 2 sprinkler heads. Entrance foyers shall have sprinklers. The department may determine an NFPA 13R residential sprinkler system shall be installed in a CBRF with one or more rooms or compartments having an unusually high ceiling, a vaulted ceiling, a ceiling with exposed beams or other design or construction features that inhibit proper water discharge when the square footage of each room or compartment in the CBRF would ordinarily allow an NFPA 13D sprinkler system.

2. A complete NFPA 13R residential sprinkler system shall be used in a CBRF licensed for 16 or fewer residents when one or more rooms or compartments in the CBRF require more than 2 sprinkler heads and not more than 4 sprinkler heads. A fire department connection is not required for an NFPA 13R sprinkler system.

3. A complete NFPA 13 automatic sprinkler system shall be used in a CBRF licensed for more than 16 residents.

4. All sprinkler systems under subs. 1. to 3. installed after January 1, 1997, shall be equipped with residential sprinkler heads in all bedrooms, apartments, all other habitable rooms and corridors.

5. All large facilities initially licensed on or after January 1, 1997, shall be protected by a complete automatic sprinkler system, except a class AA CBRF that has an equivalent safety system approved by the department.

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6. All large facilities initially licensed before January 1, 1997, of non-fire resistive construction shall be protected by a complete automatic sprinkler system, except a class AA CBRF that has an equivalent safety system approved by the department.

(b) *Installation and maintenance.* 1. All sprinkler systems shall be installed by a state licensed sprinkler contractor. All sprinkler systems shall be maintained, inspected and tested at least annually or at intervals determined by the requirements in NFPA 25.

2. In facilities with sprinklers, sprinkler heads shall be placed at the top of each linen or trash chute and in the rooms where the chutes terminates.

3. The sprinkler system flow alarm shall be connected to the CBRF's fire alarm system.

(c) *Reliable water supply.* All sprinkler systems shall have a reliable water supply. If the sprinkler system requires a mechanical device such as a compressor, pump or motor, the device shall be supplied by a reliable source of emergency power in accordance with NFPA 20.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.49 Alternative requirements to a sprinkler system in a small class C CBRF. (1) 5-YEAR DELAY. Existing small class CA, small class CS and small class CNA CBRFs using the exemption under sub. (2) shall have a complete sprinkler system as required under s. DHS 83.48 (8) within 5 years of April 1, 2009.

(2) GENERAL REQUIREMENTS. Small class CA, small class CS and small class CNA facilities constructed and licensed before April 1, 2009, are exempt from the sprinkler system requirement under s. DHS 83.48 (8) if all of the following requirements are met:

(a) No more than 4 residents require a class CA, class CS or class CNA CBRF.

(b) The bedroom and congregate dining and living area for any resident requiring a class CA, class CS or class CNA who is blind or not fully ambulatory shall be on the first floor. CBRFs serving one or more non-ambulatory residents shall have 2 accessible exits to grade.

(c) The CBRF is not located in a building which has more than 2 living units or has more than 2 stories.

(d) The requirements for a smoke and heat detection system under s. DHS 83.48 (1) to (7) are met.

(e) The smoke detection system has a backup battery power supply and is externally monitored so activation of the system automatically results in notification of the local fire department. Tape or voice type dialers are prohibited. Acceptable configurations for external monitoring are limited to any of the following:

1. A digital communicator linked to a listed monitoring company.

2. A digital communicator linked to the municipal or county emergency dispatch center or to the local fire department.

3. A direct phone line connecting the detection system to the municipal or county emergency dispatch center or to the local fire department.

(f) There is smoke separation between each floor level to prevent vertical movement of smoke.

(g) The emergency and disaster plan under s. DHS 83.47 (2) (a) specifies evacuation of residents as the response to a fire. Horizontal evacuation, use of area of refuge or use of point of rescue is prohibited. No resident may have an evacuation time, as determined under s. DHS 83.35 (5) that exceeds 2 minutes.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.50 Minimum type of construction.

(1) APPLICATION OF HABITABLE FLOOR DEFINITION. The number of habitable floors in a CBRF shall determine the type of construction for each class of licensure and when an automatic sprinkler system, combined with a smoke detection system, may substitute for the required type of construction.

(2) MINIMUM TYPE OF CONSTRUCTION FOR EACH CLASS OF LICENSURE. (a) A CBRF with 3 or fewer habitable floors shall meet the construction requirements for class of licensure in Table DHS 83.50 and as specified under subs. 1. to 3.

1. Construction Type IB means fire-resistive construction consisting of exterior walls of concrete or masonry, floors and roof of fireproofed steel or concrete and interior partitions of concrete block or steel studs.

2. Construction Type IIA means metal frame protected construction consisting of structural parts and enclosing walls of masonry in combination with other noncombustible material.

3. Construction Type VB means wood frame unprotected construction consisting of exterior walls of wood studs covered with metal or wood siding, brick, stone, slate, wood floors and roof, and interior partitions of wood stud and plaster or drywall.

**Table DHS 83.50
Minimum Type of Construction by Class of Licensure for Facilities with 3 or Fewer Habitable Floors**

Number of Habitable Floors	Class of Licensure				
	AA	AS, ANA		CA, CS, CNA	
	Construction Type	Construction Type		Construction Type	
		Non-Sprinklered	Sprinklered	Non-Sprinklered	Sprinklered
1	VB	VB	VB	IIA	VB
2	VB	VB	VB	IB	VB
3	VB	IB	IIA	IB	IIA

Note: For information regarding types of construction see ch. Comm 61.

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(b) For class AS and class ANA facilities, the bedrooms and congregate dining and living area for blind, non-ambulatory, semi-ambulatory or physically disabled residents shall be on the first floor.

(c) A CBRF of any type of construction initially licensed for a class CA, class CS or class CNA occupancy on or after January 1, 1997, shall have a sprinkler system under s. DHS 83.48 (8), except as provided under s. DHS 83.49 (2).

(d) The third floor of a 3 story unprotected wood frame building may not be used for sleeping, eating, cooking or as habitable rooms, unless the building is protected by a complete automatic sprinkler system in accordance with NFPA 13, except that storage or office space for the licensee or employees may be located on that floor.

(e) Any CBRF that meets the requirement of type IB construction in Table DHS 83.50 and is not protected by a sprinkler system shall have either an area of refuge under s. DHS 83.51 or be approved by the department for horizontal evacuation under s. DHS 83.59 (1) (b) on each floor without 2 grade level or ramped exits when residents not capable of negotiating stairs without assistance reside on the floor.

(f) A CBRF located in a building of more than 3 stories shall be in compliance with requirements found in ch. Comm 61 and shall be equipped with a complete automatic sprinkler system under NFPA 13.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.51 Area of refuge. (1) A room to be used as an area of refuge may not be a bedroom or a room for the private use of any resident, other occupant, employee, or licensee.

(2) The area of refuge shall be constructed of fire resistive construction rated for at least one-hour rated fire resistive construction. Whenever the room exits into an enclosed stairwell that is required to be of more than one-hour fire resistive construction, the room shall have the same fire-resistive construction, including the same doorway protection, as required for the adjacent stairwell.

(3) Doors in the area of refuge shall be tight-fitting and smoke and draft control assemblies having a fire-protection rating of at least 45 minutes and shall be self-closing or automatic closing.

(a) A room to be used as an area of refuge shall have an exit door directly to an exit enclosure such as a stairwell or fire escape that leads directly outside.

(b) The door leading into the area of refuge from the residential area shall be unlocked at all times. The door between the area of refuge and an exit enclosure shall be equipped with hardware that unlocks and opens with one hand and one motion from the area of refuge side of the door.

(4) Each stairway adjacent to an area of refuge shall have a minimum clear horizontal width of 4 feet between handrails.

(5) Two-way communication from the area of refuge and identification of the area of refuge shall be provided.

(6) Each area of refuge shall have a space for each person needing the area of refuge in an emergency as follows:

(a) At least 30 by 48 inches for each person who uses a wheelchair for mobility.

(b) At least 30 by 36 inches for each person who uses a walker, cane or crutch for assistance in walking.

(c) At least 30 by 24 inches for each person who does not use any assistive device for mobility or walking.

(7) The measurements under sub. (6) shall be determined after deducting the space covered by the door swing if the swing is into the area of refuge and the space needed for a passageway through the area of refuge is at least 32 inches in width.

(8) The number of residents not able to negotiate stairs who are housed on each floor level required to have an area of refuge

shall be limited to the number of spaces provided in the area of refuge on that floor.

(9) A CBRF with an area of refuge shall notify the local fire department of the emergency evacuation plan, including the use and location of each area of refuge, and the potential number of residents and employees who would use each area of refuge.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

Subchapter X — Building Design**DHS 83.52 Common dining and living space.**

(1) **SPACE PER RESIDENT.** (a) The minimum common dining and living space shall be 60 square feet per ambulatory or semi-ambulatory resident or other occupant, and 90 square feet per non-ambulatory resident or other occupant.

(b) For each resident apartment, the CBRF may apply 25% of the total floor space of the habitable rooms in the apartment, not including bedroom or bathroom floor space, toward the required congregate dining and living area requirement under par. (a), but may not exceed 30 square feet per resident.

(c) Egress paths through common-use areas may not be counted in the common space calculation.

(d) Common dining space shall be large enough to accommodate all residents in no more than 2 shifts.

(2) **ACCESS.** Common dining and living space shall be internally accessible to all residents.

(3) **RECREATIONAL SPACE.** The CBRF shall designate adequate space and equipment to meet the needs of the residents for social and recreational activities.

(4) **CEILING HEIGHT.** All common-use rooms shall have a ceiling height of at least 7 feet.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.53 Storage areas. The CBRF shall have adequate storage space for resident care supplies and equipment.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.54 Resident bedrooms. (1) **DESIGN.** (a) Bedrooms shall be designed and equipped to allow residents to achieve the highest level of independent functioning and shall be fully accessible to the resident.

(b) Floor to ceiling walls with rigid construction swing-type doors that are of the side-hinged or pivoted swinging shall enclose resident bedrooms.

(c) Bedrooms shall open directly into a corridor, the resident's private living area or common living space.

(d) Each resident shall have or be provided within the bedroom, a closet or wardrobe with clothes hanging rods and shelves, and drawer space adequate to reasonably meet the needs of the resident. The bedroom shall have adequate accessible space for a resident's wheelchair or other adaptive or prosthetic equipment.

(e) Each resident bedroom shall have a ceiling height of at least 7 feet.

(2) **LOCATION.** Resident bedrooms shall be located near toilet and bathing facilities and shall provide internal access to congregate dining and living areas.

(3) **CAPACITY.** (a) Resident bedrooms shall accommodate no more than 2 residents per room.

(b) Facilities exclusively serving residents in the custody of a government correctional agency or who is alcohol or drug dependent may accommodate up to 3 residents per room if the facility was licensed before April 1, 2009.

(4) **SIZE.** (a) In existing class AA and class CA CBRFs, single occupancy bedrooms shall have a minimum of 80 square feet per resident and 60 square feet per resident in multiple occupancy bedrooms. Minimum square footage shall be calculated exclusive of toilet rooms and closets.

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(b) In existing class AS, class CS, class ANA and class CNA CBRFs, and all newly constructed CBRFs, single occupancy bedrooms shall have a minimum of 100 square feet per resident and 80 square feet per resident in multiple occupancy bedrooms. Minimum square footage shall be calculated exclusive of toilet rooms and closets.

(c) A bedroom shared by residents who require different classes of licensure shall meet the highest applicable square footage required for all residents sharing the bedroom.

(5) BASEMENT BEDROOMS. Basement bedrooms shall have at least 2 means of exiting that provide unobstructed egress to the outside or grade level. Windows in the basement shall not be considered exits.

(6) BED ARRANGEMENTS. The CBRF shall locate beds either the minimum distance from heat producing sources recommended by the manufacturer or 18 inches. The CBRF shall have a deflector on the register when the bed is located less than 18 inches from a forced air register. Beds may not block a forced air register.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.55 Bath and toilet areas. (1) NUMBER. (a) The CBRF shall provide at least one toilet, one sink and one bath or shower for every 10 residents and other occupants or fraction thereof.

(b) Grab bars shall be provided at toilet and bath fixtures as necessary to meet the needs of the residents. Grab bars shall meet requirements as specified in ch. Comm 61.

(c) When fixtures are accessed only through a bedroom, the fixtures may only be counted as meeting the requirement for the occupants of that bedroom.

(2) LOCATION. Toilet rooms and bathing areas shall be accessible and available to residents on each floor in class AS, class ANA, class CS and class CNA facilities.

(3) HAND DRYING. All sink areas shall have dispensers for single use paper towels, cloth towel dispensing units that are enclosed for protection against being soiled or electric hand dryers. This requirement does not apply to sink areas located in toilet rooms accessed directly from a resident bedroom.

(4) PRIVACY. (a) Bath and toilet rooms shall have door locks to ensure privacy, except where the toilet, bath or shower room is accessed only from a resident room that is occupied by one person. All door locks shall be operable from both sides.

(b) All toilet and bathing areas shall have floor to ceiling walls and door assembly.

(5) ELECTRICAL FIXTURES. Bath and toilet rooms shall have at least one electrical fixture to provide artificial light and one electrical duplex outlet receptacle.

(6) WATER SUPPLY. (a) The CBRF shall connect each sink, bathtub and shower to hot and cold water, and supply adequate hot water to meet the needs of the residents.

(b) The CBRF shall set the temperature of all water heaters connected to sinks, showers and tubs used by residents at a temperature of at least 140°F. The temperature of water at fixtures used by residents shall be automatically regulated by valves and may not exceed 115°F, except for CBRFs serving residents recovering from alcohol or drug dependency or clients of a government correctional agency.

(c) The fixtures at sinks used by residents shall be the single nozzle, lever-handled mixing type fixtures or the single nozzle, 2 handled mixing type fixtures which are easy for all residents to control.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.56 Day care. If there is a day care program in the same building as a CBRF, the facilities shall be separated. Entrance and exit doors for each facility shall be separate. Social-

ization between facilities shall not interfere with privacy or infringe upon the use of habitable floor space of CBRF residents.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.57 Multiple occupancies. (1) PHYSICAL SEPARATION. (a) A CBRF located in the same building as a nursing home or hospital shall be a distinct living area and shall be separated between the 2 occupancies by a minimum of a 2 hour fire rated construction or all parts of each distinct living area shall meet the higher fire protection standards.

(b) A CBRF located in the same building as a residential care apartment complex or other residential occupancy shall be a distinct living area and shall be separated between the 2 occupancies by at least a one hour fire rated construction. The entire building shall be equipped with an interconnected smoke and heat detection system and sprinkler system in compliance with s. DHS 83.48. The CBRF shall maintain documentation for all testing and maintenance of the detection system in both the CBRF and the non-CBRF.

(c) A small CBRF located in one living unit of a duplex shall be a distinct living area and shall be separated between the 2 occupancies by at least a one hour fire rated construction. The entire building shall be equipped with an interconnected smoke and heat detection system and sprinkler system in compliance with s. DHS 83.48. The CBRF shall maintain documentation for all testing and maintenance of the detection system in both the CBRF and the non-CBRF.

(d) If a common lobby and access area of a multiple occupancy building is not provided, the CBRF shall have separate entrance and exit doors.

(2) COMMON USE AREAS. If CBRF residents and other occupants are intermixed and the total building is available to CBRF residents and other occupants, the common dining and living space shall be determined by the total capacity of the building as described under s. DHS 83.52 (1) (a). If CBRF residents and other occupants are not intermixed, the facility shall provide common living and dining space as described in s. DHS 83.52 (1) (a) for the use of the CBRF residents.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.58 Garages and utility buildings. (1) ATTACHED GARAGE. (a) Common walls between a CBRF and an attached garage shall be protected with at least one layer of 5/8-inch type X gypsum board with taped joints on the garage side and with at least one layer of 1/2-inch gypsum board with taped joints, or equivalent, on the CBRF side. The walls shall provide a complete separation.

(b) Floor-ceiling assemblies between a garage and the CBRF shall be protected with at least one layer of 5/8-inch type X gypsum board on the garage side of the ceiling or room framing.

(c) A self-closing 1 3/4-inch solid core wood door or an equivalent self-closing fire-resistive rated door shall protect openings between an attached garage and the CBRF.

(d) When a required exit leads into a garage, the garage shall have at least a 32 inch service door to the outside.

(2) DETACHED GARAGES. A detached garage shall either be located at least 3 feet from the CBRF or shall comply with the requirements for attached garages under sub. (1).

(3) UTILITY BUILDINGS. A utility building where fueled, motorized vehicles and appliances such as snowmobiles, power lawn mowers, motorcycles, and snow blowers are stored shall be located at least 3 feet from the CBRF or comply with the requirements for attached garages under sub. (1).

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.59 Exits and passageways. In this section, "exit" means standard exit doors opening to passageways or grade, exit passageways, fire escapes, and stairways as specified in ch. Comm 61.

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(1) EXITS. All habitable floors shall have at least 2 exits providing unobstructed travel to the outside. Small class AA CBRFs licensed on or before April 1, 2009, with no more than 2 habitable floors may have one exit from the second floor.

(a) Class AS, class ANA, class CS and class CNA CBRFs shall have at least 2 grade level or ramped exits to grade.

(b) A CBRF may use horizontal evacuation as defined under ch. Comm 61. The CBRF shall have approval from the department before including horizontal evacuation in the emergency and disaster plan under s. DHS 83.47 (2).

(c) Exit doors and doors in exit passageways shall have a clear opening of at least 32 inches in width and 76 inches in height.

(d) Exit passageways, stairways and doors in class AA facilities shall be at least 30 inches clear opening in width. Class AA facilities licensed on or before April 1, 2009, shall have a minimum width of 28 inches clear opening for existing passageways, stairways and doors.

(e) No exit passageway may be through areas such as a resident room, bath or toilet room, closet or furnace rooms.

(f) Exit passageways and stairways to outside exits shall be at least 36 inches in width and maintained clear and unobstructed at all times. Exit passageways and stairways to outside exits shall be at least 32 inches in width in facilities licensed on or before April 1, 2009. In existing large facilities, the minimum corridor width shall be at least 4 feet.

(g) Exits, sidewalks and driveways used for exiting shall be kept free of ice, snow, and obstructions. For facilities serving only ambulatory residents, the CBRF shall maintain a cleared pathway from all exterior doors to be used in an emergency to a public way or safe distance away from the building. For facilities serving semi-ambulatory and non-ambulatory residents, a CBRF shall maintain a cleared, hard surface, barrier-free walkway to a public way or safe distance away from the building for at least 2 primary exits from the building. All other required exits shall have at least a cleared pathway maintained to a public way or safe distance from the building. An exit door or walkway to a cleared driveway leading away from the CBRF also meets this requirement.

(h) The exit path from the CBRF through the garage to the outside shall be clear, safe and unobstructed.

(2) DOORS. (a) All doors shall have latching hardware to permit opening from the inside with a one-hand, one-motion operation without the use of a key or special tool.

(b) A solid core wood door or an equivalent fire resistive door shall be provided at any interior stair between the basement and the first floor. The door shall have a positive latch and an automatic closing device and normally shall be kept closed. Enclosed furnace and laundry areas with self-closing doors in a split level home may substitute for the self-closing door between the first and second levels. Enclosed furnace and laundry areas shall have self closing solid core wood doors or an equivalent fire resistive door when located on a common level with resident bedrooms.

(c) All interior doors equipped with locks shall be designed to unlock from either side in case of emergency.

(d) Levered handles shall be provided on all doors used by residents with manual strength or dexterity limitations.

(e) Toilet room doors shall not swing into a toilet room unless equipped with 2-way hardware.

(f) The staff member in charge on each work shift shall have a means of opening all locks or security devices on all doors in the CBRF.

(3) PATIO DOORS. A patio door may be used as a supplementary exit in an emergency in addition to the required primary exits and shall comply with all of the following:

(a) Factory installed door fastenings or hardware on sliding glass patio doors is acceptable. The use of bolt locks on sliding glass patio doors is prohibited.

(b) All door fastenings or hardware on hinged, swing-type patio doors shall be operable from the inside with one hand and one motion without the use of a key or special tool.

(c) Furniture and other obstacles shall not be placed in front of the patio door.

(d) A clear and unobstructed pathway shall be maintained to a safe distance away from the building.

(4) DELAYED EGRESS. Delayed egress door locks are permitted with department approval only in facilities with a supervised automatic fire sprinkler system and a supervised interconnected automatic fire detection system and shall comply with all of the following:

(a) No more than one device shall be present in a means of egress.

(b) A sign shall be posted adjacent to the locking device indicating how the door may be opened.

(c) The doors shall unlock upon activation of the sprinkler system or fire detection system. The doors shall unlock upon loss of power controlling the lock or locking mechanism.

(d) The door locks shall have the capability of being unlocked by a signal from the CBRF's fire command center.

(e) An irreversible process will occur which will release the latch in not more than 15 seconds when a force of not more than 15 pounds is applied for 3 seconds to the release device. Initiation of the irreversible process shall activate an audible signal in the vicinity of the door. Once the door lock has been released by the application of force to the releasing device, re-locking shall be by manual means only.

(f) To obtain department approval, the CBRF shall demonstrate that delayed egress equipment is necessary to ensure the safety of residents served by the CBRF, specifically persons at risk of elopement due to behavioral concerns, cognitive impairments or dementia, including Alzheimer's disease.

(5) STAIRS AND SHAFTS. (a) All required interior and exterior exit stairways shall be in compliance with ch. Comm 61. For small CBRFs, all required interior and exterior exit stairways shall be in compliance with the Uniform Dwelling Code.

(b) One or more handrails shall be provided on all stairways in accordance with ch. Comm 61. For small CBRFs, handrails shall be in compliance with s. Comm 21.04. Handrails shall be provided on the open sides of stairways and platforms. CBRFs licensed before January 1, 1997, shall have handrails at least 29 inches above the nose of the tread.

(c) Winders in stairways shall be provided with handrails on both sides, at least 29 inches above the nose of the tread.

(d) Winders in stairways used as required exits shall have treads of at least 7 inches in width at a point one foot from the narrow end of the tread.

(e) Spiral stairs are prohibited for use as required exit stairs.

(f) Any shaft such as a dumbwaiter or laundry chute leading to the basement, as defined in ch. Comm 61, shall be provided with a door on each level above the lowest floor. The door shall have a positive latch and an automatic closing device and shall normally be kept closed. A spring of sufficient strength to close the door and activate the door latch is acceptable for meeting the automatic closing device portion of this requirement.

(6) RAMP REQUIREMENTS. (a) *Slope.* In existing buildings, all exterior ramps shall have a slope of not more than one foot of rise in 12 feet of run. In existing buildings, an existing interior ramp with a slope of one foot of rise in 8 feet may be retained to overcome a total height not greater than 2 feet when the floor area does not permit a 1:12 ramp. The ramps shall have a slip-resistant surface and shall have no side slope.

(b) *Width.* Ramps shall be at least 4 feet wide, of which not more than 4 inches on each side may be occupied by a handrail.

(c) *Handrails.* 1. Ramps in CBRFs initially licensed on or after January 1, 1997, shall have a handrail on each side which

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shall be mounted between 34 inches and 38 inches above the ramp surface. CBRFs licensed before January 1, 1997, shall have handrails mounted at least 30 inches above the ramp surface.

2. Handrails on unenclosed ramps shall include an intermediate parallel rail at mid-height.

(d) *Clearance.* Where ramps are provided to doorways, the ramp on each side of the doorway shall be level for 5 feet from the door.

(e) *Platforms.* Ramps having a 1:12 slope shall have a level platform at 30-foot intervals. All ramps shall have level platforms at least 5 feet long where they turn and at least 5 feet by 5 feet level landing at the bottom of the ramp.

(7) **EMERGENCY LIGHTING.** (a) All exit passageways and stairways shall be provided with emergency egress lighting with a stand-by power source.

(b) All required exit signs shall be lighted at all times.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.60 Windows. (1) **MINIMUM SIZE.** Every habitable room shall have at least one outside window with a total window area of at least 8% of the floor area in the room. The window shall be openable from the inside without the use of tools or keys. The openable area of the window shall be not less than 4% of the floor area of the room.

(2) **SCREENS.** All required openable windows shall have insect-proof screens.

(3) **WINDOW COVERINGS.** Every habitable room shall have shades, drapes or other covering material or device that affords privacy and light control.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.61 Interior surfaces. (1) **WALLS AND CEILINGS.** Interior walls and ceilings in spaces subjected to moisture shall have water-resistant hard surfaces and no substantial surface irregularities or cracking.

(2) **CARPET.** (a) Except in a sprinklered CBRF, all newly installed carpeting shall have a minimum Class rating under the tunnel test with a flame-spread rating of 75 or less when tested in accordance with NFPA 255, or a Class II rating under the radiant panel flux test NFPA 253 with a flame-spread rating of 0.22 watts per square centimeter or greater when tested in accordance with ch. Comm 61 or the manufacturer for each specific product.

(b) Certified proof by the manufacturer of one of those tests for the specific product shall be available in the CBRF. Certification by the installer that the material installed is the product referred to in the test proof shall be obtained by the CBRF.

(c) No carpeting may be applied to walls unless the carpet has a class A rating under the tunnel test with a flame-spread rating of 25 or less.

(3) **POLYURETHANE AND POLYSTYRENE SURFACES.** Exposed polyurethane and polystyrene surfaces are prohibited, except varnished woodwork.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

Subchapter XI — Requirements for New Construction, Remodeling, Additions, or Newly-Licensed Existing Structures

DHS 83.62 Codes. (1) The following codes and standards are adopted as part of these rules and incorporated by reference:

(a) Wisconsin Commercial Building Code, chs. Comm 61 to 66, current edition.

(b) NFPA 72, National Fire Alarm Code, 2002 edition.

(c) NFPA 13, Standard for the Installation of Sprinkler Systems, 2002 edition.

(d) NFPA 13R, Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height, 2002 edition.

(e) NFPA 13D, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes, 2002 edition.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.63 Plan review. (1) **DEPARTMENT OF COMMERCE PLAN REVIEW.** Plan review by the department of commerce is required for new construction or remodeling of CBRFs of 9 or more residents except for those CBRFs attached to hospitals or nursing homes.

(2) **DEPARTMENT PLAN REVIEW AND APPROVAL.** (a) *New and remodeled.* Plans for all new construction, additions, and remodeling projects for CBRFs shall be approved by the department before beginning construction, except under sub. (4) (b).

(b) *Existing buildings.* Existing buildings applying for CBRF licensure after April 1, 2009, shall submit plans for department review for compliance with this subsection.

(c) *Plan submission.* At least 2 sets of working drawings and specifications shall be submitted to the department. The drawings shall be scaled and to dimension. The review process begins after the department receives all required documents and fees.

(3) **REQUIREMENTS FOR SUBMISSION.** (a) *Specifications.* The working drawing and specifications shall meet the requirements of the department of commerce.

(b) *Stamped and sealed.* The drawings shall be stamped and sealed according to s. Comm 61.31.

(c) *Changes.* Any changes in the approved plans affecting the application of the requirements of this subchapter shall be submitted to the department before beginning the work. The changes shall be made on the previously approved drawings.

(d) *Construction.* If construction above the foundation level is not initiated within one year from the date of the department's approval, the approval shall be void and plans, specifications, and fees shall be resubmitted to the department for approval.

(4) **FEES FOR PLAN REVIEW.** (a) *Fees.* The fees established in this subsection shall be paid to the department for providing the plan review under sub. (2). The department may withhold plan review for those parties who have past due accounts with the department. The department shall charge a CBRF a fee in accordance with the following schedule:

1. For projects with an estimated dollar value of less than \$2,000, a fee of \$100.

2. For projects with an estimated dollar value of at least \$2,000 but less than \$25,000, a fee of \$300.

3. For projects with an estimated dollar value of at least \$25,000 but less than \$100,000, a fee of \$500.

4. For projects with an estimated dollar value of at least \$100,000 but less than \$500,000, a fee of \$750.

5. For projects with an estimated dollar value of at least \$500,000 but less than \$1 million, a fee of \$1,500.

6. For projects with an estimated dollar value of at least \$1 million but less than \$5 million, a fee of \$2,500.

7. For projects with an estimated dollar value of over \$5 million, a fee of \$5,000.

(b) *Fee for permission to start construction.* The fee for permission to start construction shall be \$80. This fee shall apply to those applicants proposing to start construction prior to the approval by the department of the plans.

(c) *Fee for plan revision.* The fee for revision of previously approved plans shall be \$100. This fee applies to plans that are revised for reasons other than those requested by the department. There is no fee for revisions requested by the department as a condition of original plan approval.

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(d) *Payment of fees.* Fees shall be remitted at the time the plans are submitted to the department. No plan examinations, approvals or inspections may be made by the department until fees are received.

(5) **NEW AND EXISTING BUILDINGS.** (a) New construction and additions. New construction and any additions to CBRFs after April 1, 2009, shall meet the requirements of this subchapter.

(b) *Existing facilities.* Any remodeling of or change in licensure class of CBRFs licensed before April 1, 2009, shall meet the requirements of this subchapter. For purposes of this subsection, if a remodeled area in any existing building, wing, or floor exceeds 50% of the total square footage of the building, wing, or floor, then the entire building, wing or floor shall be brought into compliance with the rules governing new construction which are in effect at the time of the plan submittal to the department.

(c) *Newly licensed existing structures.* Any existing building, or any portion thereof, seeking licensure as a CBRF after April 1, 2009, shall meet the requirements of this subchapter.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.

DHS 83.64 Building standards. (1) Building systems shall be installed according to all referenced standards. Systems include heating, ventilation and air conditioning, plumbing, electrical, and fire protection.

(2) Interconnected detection systems in small facilities shall at minimum meet the provisions of NFPA 72, Chapter 11. Initial testing shall meet NFPA 72, Chapter 10.

(3) Facilities with a licensed capacity of 9 or more residents shall incorporate the interconnected detection system into a building fire alarm system complete with manual pull stations, horns and strobes, and a control panel with battery back-up which will activate a building-wide alarm if any initiating device is automatically or manually activated, including activation of the sprinkler system.

(4) CBRFs of the following size and class shall be provided with automatic sprinkler systems in accordance with the chart and with the requirements under s. DHS 83.48 (8) (a).

Sprinkler System Chart for New Construction

Facility Class and Size	Sprinkler System Requirement
CBRF Large 'A'-class (21 or more)	NFPA 13 R or NFPA 13
CBRF Medium 'A'-class (9-20)	NFPA 13 R or NFPA 13
CBRF Small 'A'-class (5-8)	Not Required
CBRF Large 'C'-class (21 or more)	NFPA 13
CBRF Medium 'C'-class (9-20)	NFPA 13 D or NFPA 13
CBRF Small 'C'-class (5-8)	NFPA 13 D or NFPA 13 R

(5) All CBRF with a license capacity of 9 or more residents shall have smoke compartments formed by smoke barriers in accordance with ch. Comm 61.

(6) Small class AA facilities shall have at least 2 primary exits that are doors from each floor that provide unobstructed travel to grade level.

(7) All entrance and exit doors and interior doors serving all common living areas and all bathrooms and bedrooms in small CBRFs shall have a clear-width opening of at least 32 inches.

(8) All interior and exterior ramps shall have a slope of not more than one foot of rise in 12 feet of run.

History: CR 07-095: cr. Register January 2009 No. 637, eff. 4-1-09.