

(2) A CBRF may admit or retain a person with a need for:

(a) Intermittent nursing care procedures.

(b) Seven hours or less per week of supportive home care services or personal care services or a combination of both.

(3) Residents of decidedly different ages, developmental levels, and behavior patterns may not be housed together if the arrangement would be harmful to the health, safety and welfare of residents housed together. Residents who are deaf, blind, epileptic, nonambulatory but mobile, or otherwise disabled shall not be segregated on the basis of their handicap.

(4) Minors may be admitted as residents only if;

(a) The facility is licensed under ch. 48, Stats., or

(b) The minor has been adjudicated as an adult, or

(c) The minor is the child of an adult resident, or

(d) The admission is approved by the department.

(5) Denial of admission shall not be based on race, color, or national origin, or on handicap unless the facility is not licensed to admit persons with particular handicaps and cannot with reasonable accommodation modify the facility to meet such a licensing requirement.

History: Cr. Register, August, 1978, No. 272, eff. 10-1-78.

HSS 3.08 Procedure for licensure. (1) APPLICATION FOR LICENSE. The application for license shall be in writing upon forms provided by the department and shall contain such information as the department requires. The application shall be accompanied by the program statement prepared under s. HSS 3.12 and a floor plan indicating:

(a) The size and location of all rooms, doorways and hallways. Precise scale drawings are not required.

(b) The planned use of each room. The plan shall indicate the maximum number of occupants to be accommodated in each sleeping room.

(c) If the facility will accommodate semi-ambulatory or nonambulatory persons, which rooms will be open to occupancy by semi-ambulatory or nonambulatory persons and the type and extent of disability involved.

(2) **APPROVAL.** Within 70 days after receiving a complete application for a CBRF license, consisting of a completed application form, the program plan, the floor plan and supporting documents, and following an onsite survey by a designated representative of the department to determine whether or not the applicant is in compliance with all requirements of this chapter, the department shall either approve or deny the application. If the application is approved, the department shall issue a CBRF license. If the application is denied, the department shall specify the area of non-compliance, the applicant shall be given an opportunity to make the necessary changes, and the department shall make a new determination on the application within 30 days after the applicant notifies the department's representative that the necessary changes have been made.

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(3) **ISSUANCE OF LICENSE.** The department will issue a license if all requirements for licensure are met.

(4) **RENEWAL.** Unless sooner revoked or suspended, a license is valid for one year. Annually at such time and in such form as the department requires, the applicant shall submit a current program plan and application for renewal of the license. If the application is approved, the license will be renewed for an additional one-year period. If application for renewal is not filed on time, the department will issue a warning to the licensee. If application for renewal is not made within 30 days thereafter, the license will be canceled. (s. 50.03(4)(c), Stats.)

(5) **CONTENT OF LICENSE.** Each license shall be issued only for the premises and persons named in the application and shall not be transferable or assignable. The license shall be available for review in the community-based residential facility. Any license granted shall state the maximum bed capacity allowed, the person to whom the license is granted, the date, the expiration date, the minimal services which the CBRF shall provide as a condition of its licensure and such additional information and special limitations as the department may prescribe. (s. 50.03(4)(e), Stats.)

(6) **RIGHT TO FAIR HEARING.** In the event that the department denies, revokes, suspends, or does not renew a license, the facility has a right to an administrative hearing. For revocation, suspension, or nonrenewal, that hearing must be held prior to the effective date of the department's action.

Note: See s. 50.03 (5), Stats.

(7) **EXCEPTIONS TO THE RULE.** (a) The department may waive or grant variances to the requirements of these rules if:

1. Strict enforcement of the rule would result in unreasonable hardship on the facility and the waiver or variance is in accordance with the particular needs of residents and will not adversely affect the health, safety, welfare or rights of residents;

2. The waiver or variance is part of a written program plan designed to test alternative methods of delivering CBRF services, and the waiver or variance will not adversely affect the health, safety, welfare or rights of residents; or

3. Intermediate care facilities which have 15 or fewer beds are exempted from meeting certain requirements of the federal regulations, in which case they may be exempted from the corresponding requirements of these rules.

(b) The department may impose specific conditions on a waiver or variance in order to protect the health, safety, rights or welfare of residents. Violation of the conditions under which a waiver or variance is granted constitutes a violation of these rules.

History: Cr. Register, August, 1978, No. 272, eff. 10-1-78; r. and recr. (2), Register, October, 1985, No. 358, eff., 11-1-85.

HSS 3.09 Requirements of other public agencies (1) DEPARTMENT OF INDUSTRY, LABOR AND HUMAN RELATIONS. Each CBRF shall comply with all applicable statutes and rules of the department of industry, labor and human relations affecting health, safety and hygiene.

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(a) Small existing CBRF are exempt from chs. ILHR 50-64, Wis. Adm. Code, except for:

1. Any CBRF located in a residential building having:

a. Three or more units other than a duplex.

b. Any portion of which is occupied by any person who is not a resident, employe, or relative of an employe of the facility.