

Chapter HSS 134

FACILITIES FOR THE DEVELOPMENTALLY DISABLED

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Note: Chapter H 34 as it existed on June 30, 1988 was repealed and a new chapter HSS 134 was created effective July 1, 1988.

Subchapter I — General

HSS 134.11 Authority and purpose. This chapter is promulgated under the authority of s. 50.02 (2) and (3), Stats., to provide conditions of licensure for facilities that primarily serve developmentally disabled persons who require active treatment. This chapter is intended to protect and promote the health, safety and well-being of residents of these facilities.

History: Cr. Register, June, 1988, No. 390, eff. 7-1-88.

HSS 134.12 Scope. (1) **APPLICABILITY.** All facilities that provide care primarily for developmentally disabled persons who require active treatment, including facilities owned and operated by the state, a county, a municipality or another public body, are subject to this chapter. A facility that is regulated as a community-based residential facility defined in s. 50.01 (1), Stats., or a nursing home, defined in s. 50.01 (3), Stats., on July 1, 1988 is subject to this chapter rather than to ch. HSS 3 or 132 if it is a facility for the developmentally disabled.

(2) **CUMULATIVE RIGHTS.** The rights and safeguards provided by these rules are cumulative and may not be construed as restricting any right or

safeguard provided for any resident by ch. 50, 51, 55 or 880, Stats., or any other applicable statute or rule.

History: Cr. Register, June, 1988, No. 390, eff. 7-1-88.

HSS 134.13 Definitions. In this chapter:

(1) "Abuse" means any single or repeated act of force, violence, harassment, deprivation, neglect or mental pressure which reasonably could cause physical pain or injury, or mental anguish or fear.

(2) "Active treatment" means an ongoing, organized effort to help each resident attain or maintain his or her developmental capacity through the resident's regular participation, in accordance with an individualized plan, in a program of activities designed to enable the resident to attain or maintain the optimal physical, intellectual, social and vocational levels of functioning of which he or she is capable.

(3) "ADL" or "activities of daily living" means the functions or activities normally associated with bodily hygiene, nutrition, toileting, rest and ambulation.

(4) "Administrator" means a person who is licensed under ch. 456, Stats., or is a qualified mental retardation professional, and who is responsible for the total operation of the facility.

(5) "Ambulatory" means able to walk without assistance.

(6) "Behavior management" means a method used to establish, alter, maintain or eliminate specified behaviors by providing reinforcement that increases the strength of appropriate behaviors and decreases the strength of inappropriate behaviors.

(7) "Center for the developmentally disabled" means a department-operated residential institution for the care of developmentally disabled persons.

Note: There are 3 state centers for developmentally disabled persons in Wisconsin: Central Center, Northern Center and Southern Center.

(8) "Department" means the Wisconsin department of health and social services.

(9) "Developmental disability" means mental retardation or a related condition such as cerebral palsy, epilepsy or autism, but excluding mental illness and infirmities of aging, which is:

(a) Manifested before the individual reaches age 22;

(b) Likely to continue indefinitely; and

(c) Results in substantial functional limitations in 3 or more of the following areas of major life activity:

1. Self-care;

2. Understanding and use of language;

3. Learning;

4. Mobility;

5. Self-direction; and

(g) Warning signs shall be posted when oxygen is in use.

History: Cr. Register, June, 1988, No. 390, eff. 7-1-88.

HSS 134.72 Safety and sanitation. (1) **GENERAL REQUIREMENT.** Facilities shall develop and implement policies that provide for a safe and sanitary environment for residents and personnel at all times.

(2) **CLEANING AND REPAIR.** (a) *General.* Facilities shall be kept clean and free from offensive odors, accumulations of dirt, rubbish, dust and safety hazards.

(b) *Floors.* Floors and carpeting shall be kept clean. If polishes are used on floors, a nonslip finish shall be provided. Carpeting or any other material covering the floors that is worn, damaged, contaminated or badly soiled shall be replaced.

(c) *Ceilings and walls.* 1. Ceilings and walls shall be kept clean and in good repair. The interior and exterior of the buildings shall be painted or stained as needed to protect the surfaces. Loose, cracked or peeling wallpaper or paint shall be replaced or repaired.

2. A facility shall use lead-free paint inside the facility and shall remove or cover any surfaces containing lead-based paint that are accessible to residents.

(d) *Furnishings.* All furniture and other furnishings shall be kept clean and in good repair at all times.

(3) **COMBUSTIBLES IN STORAGE AREAS.** Attics, cellars and other storage areas shall be kept safe and free from dangerous accumulations of combustible materials. Combustibles, including cleaning rags and compounds, shall be kept in closed metal containers.

(4) **GROUNDS.** The grounds of the facility shall be kept free from refuse, litter and waste water. Areas around buildings, sidewalks, gardens and patios shall be kept clear of dense undergrowth.

(5) **POISONS.** All poisonous compounds shall be clearly labelled as poisonous and, when not in use, shall be stored in locked areas. These areas shall be separate from food storage, kitchenware storage and medication storage areas.

(6) **GARBAGE.** (a) All garbage and rubbish shall be stored in leakproof, nonabsorbent containers with close-fitting covers and in areas separate from areas used for the preparation and storage of food. Containers shall be cleaned regularly. Paperboard containers may not be used.

(b) Garbage and rubbish shall be disposed of promptly in a safe and sanitary manner.

Note: See requirements for incineration under s. HSS 134.83 (8) (f).

(7) **LINEN AND TOWELS.** Linens and towels shall be handled, stored, processed and transported in such a manner as to prevent the spread of infection. Soiled linen may not be sorted, rinsed or stored in bathrooms, resident rooms, kitchens, food storage areas or common hallways. If it is necessary to transport soiled linen through food preparation areas to laundry facilities, linens shall be in covered containers.

(8) **PEST CONTROL.** (a) *Requirement.* Facilities shall be maintained reasonably free from insects and rodents, with harborages and entrances of insects and rodents eliminated. When harborages and entrances of insects persist despite measures taken to eliminate them, pest control services shall be secured in accordance with the requirements of s. 94.705, Stats., to eliminate infestations.

(b) *Screening of windows and doors.* All windows and doors used for ventilation purposes shall be provided with wire screening of not less than number 16 mesh or its equivalent and shall be properly installed and maintained to prevent entry of insects. Screen doors shall be self-closing and shall not interfere with exiting. Properly installed airflow curtains or fans may be used in lieu of screens.

History: Cr. Register, June, 1988, No. 390, eff. 7-1-88.

Subchapter VII — Life Safety, Design and Construction

HSS 134.81 Scope and definitions. (1) **APPLICATION.** This subchapter applies to all facilities except where noted. Wherever a rule in ss. HSS 134.83 or 134.84 modifies the applicable life safety code under s. HSS 134.82, the rule shall take precedence.

(2) **DEFINITIONS.** The definitions in the applicable life safety code required under s. HSS 134.82 apply to this subchapter. In addition, in this subchapter:

(a) "Type I facility" means a facility first licensed by the department or the plans of which were approved by the department as a facility regulated under ch. H 30, 31 or 32 prior to January 23, 1968, or as a public institution for the mentally retarded under ch. H 34 prior to or on November 1, 1972.

(b) "Type II facility" means a facility the plans of which were approved by the department as a facility regulated under ch. H 30, 31 or 32, or under ch. HSS 3 or 132, on or after January 23, 1968, or which was approved as a public institution for the mentally retarded under ch. H 34 after November 1, 1972, or which applies for approval on or after July 1, 1988, including new construction, an addition to an existing licensed facility and major remodeling, alteration or conversion of a facility.

History: Cr. Register, June, 1988, No. 390, eff. 7-1-88.

HSS 134.815 Fees for plan reviews. (1) **REQUIREMENT.** Before the start of any construction or remodeling project for a facility for the developmentally disabled, the plans for the construction or remodeling shall be submitted to the department, pursuant to s. HSS 134.84 (1), for review and approval by the department. The fees established in this section shall be paid to the department for providing plan review services.

(2) **BASIC FEE SCHEDULE.** The department shall charge facilities for the developmentally disabled the following fees for review of plans for all capital construction and remodeling projects:

(a) For projects with an estimated dollar value of less than \$5,000, a fee of \$100;

(b) For projects with an estimated dollar value of at least \$5,000 but less than \$25,000, a fee of \$300;

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(c) For projects with an estimated dollar value of at least \$25,000 but less than \$100,000, a fee of \$500;

(d) For projects with an estimated dollar value of at least \$100,000 but less than \$500,000, a fee of \$750;

(e) For projects with an estimated dollar value of at least \$500,000 but less than \$1 million, a fee of \$1,500;

(f) For projects with an estimated dollar value of at least \$1 million but less than \$5 million, a fee of \$2,500; and

(g) For projects with an estimated dollar value of over \$5 million, a fee of \$5,000.

(3) HANDLING AND COPYING FEES. (a) The department shall charge a handling fee of \$50 per plan to the submitting party for any plan which is submitted to the department, entered into the department's system and then the submitting party requests that it be returned prior to review.

(b) The department may charge a photocopying fee of 25 cents per page to anyone who requests copies of construction or remodeling plans, except that a fee of \$5 per plan sheet shall be charged for reproduction of plan sheets larger than legal size.

History: Emerg. cr. eff. 1-1-94; cr. Register, August, 1994, No. 464, eff. 9-1-94.

HSS 134.82 Life safety code. (1) APPLICABLE CODE. Except as provided in subs. (2) and (3):

(a) *1967 code*. Facilities with construction plans first approved by the department prior to June 1, 1976, shall meet the applicable provisions of the 21st edition (1967) of the Life Safety Code. (See Table 134.82.)

(b) *1973 code*. Facilities with construction plans first approved by the department on or after June 1, 1976 but before November 26, 1982, shall meet the provisions of the 23rd edition (1973) of the Life Safety Code. (See Table 134.82.)

(c) *1981 code*. Facilities with construction plans first approved by the department on or after November 26, 1982 but before May 19, 1986,

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