

## Chapter DCF 52

### RESIDENTIAL CARE CENTERS FOR CHILDREN AND YOUTH

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**Note:** Chapter HSS 52 was renumbered chapter HFS 52 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, June, 1999, No. 522. Chapter HFS 52 was repealed and recreated, Register, February, 2000, No. 530, eff. 9-1-00. Chapter HFS 52 was renumbered to chapter DCF 52 under s. 13.92 (4) (b) 1., Stats., Register November 2008 No. 635.

#### Subchapter I — General Provisions

**DCF 52.01 Authority and purpose.** This chapter is promulgated under the authority of s. 48.67, Stats., to ensure that residential care centers for children and youth protect and promote the health, safety and welfare of residents, respect the rights of individual residents, provide the most appropriate conditions possible for each resident, help each resident develop socially acceptable patterns of behavior, develop resident treatment plans consistent with the state's permanency planning policy to support the integrity of the family, and help each resident return as quickly as possible to his or her family or achieve permanency through adoption or guardianship. This chapter is also promulgated under the authority of s. 49.343, Stats., to establish the rate that a residential care center may charge for its services and to promote efficient provision of services.

**History:** Cr. Register, February, 2000, No. 530, eff. 9-1-00; EmR1106: emerg. am., eff. 9-16-11; CR 11-026: am. Register December 2011 No. 672, eff. 1-1-12.

**DCF 52.02 Applicability. (1) SCOPE.** This chapter applies to the department, to applicants for a license to operate a residential care center for children and youth and to all licensed residential care centers for children and youth, except as provided in s. DCF 52.57 for type 2 residential care center programs, in s. DCF 52.58 for short-term programs and in s. DCF 52.59 for respite care services programs.

**(2) EXCEPTIONS.** (a) The department may grant an exception to a nonstatutory requirement of this chapter if the department determines that the exception will not jeopardize the health, safety or welfare of any child served by the center. A request for an exception shall be made on a form prescribed by the department. The request shall justify the exception and describe the alternative provision that meets the intent of the requirement.

**Note:** Form DCF-F-5023-E, *Child Welfare Request for Exception*, is available in the forms section of the department website, <http://dcf.wisconsin.gov>, or from a

department field office. A request for an exception to a requirement of this chapter should be sent to the licensing representative of the department's Division of Safety and Permanence. See Appendix D for the address of the field office for your area.

(b) The department may impose one or more specific conditions on any exception granted under this subsection to protect the health, safety or welfare of residents. Violation of a condition is a violation of this chapter.

**History:** Cr. Register, February, 2000, No. 530, eff. 9-1-00; correction in (1) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635; EmR1414: emerg. am. (2) (a), eff. 8-1-14; CR 14-054: am. (2) (a) Register April 2015 No. 712, eff. 5-1-15.

**DCF 52.03 Definitions.** In this chapter:

**(1) "Aftercare"** means follow-up services provided to a young person after he or she is discharged from a center.

**(1m) "Age or developmentally appropriate activities"** means activities that are generally accepted as suitable for children of a given chronological age or level of maturity or that are determined to be developmentally appropriate for a child based on the cognitive, emotional, physical, and behavioral capacities that are typical for children of a given age or age group or, in the case of a specific resident, activities that are suitable for the resident based on the cognitive, emotional, physical, and behavioral capacities of that resident.

**(2) "Center"** means a residential care center for children and youth.

**Note:** Residential care centers for children and youth were formerly called child care institutions (CCIs) and in ch. 48, Stats., are referred to as child welfare agencies.

**(2m) "Child"** is a person who is under 21 years of age and is under juvenile court jurisdiction or other court order, is being provided services by a child welfare or juvenile justice agency, or is placed under a contract or agreement.

**(3) "Child-placing agency" or "placing agency"** means any agency that is required to be licensed under s. 48.60, Stats., and ch. DCF 54, to place children into adoptive homes, foster homes or group homes, to accept guardianship of children or to license foster homes, or a county department with powers and duties as defined under s. 48.57, Stats., the department or the Wisconsin department of corrections or any other lawful placement authority.

(4) “County department” or “county” means a county department of social services under s. 46.215 or 46.22, Stats.; a county department of human services under s. 46.23, Stats.; or a county department under s. 51.42 or 51.437, Stats.

(5) “Department” means the Wisconsin department of children and families.

(5m) “Family interaction plan” means a plan developed by a placing agency to promote a resident’s interaction with members of the resident’s family and includes interaction by face-to-face contact; telephone calls; letters; emails; and attendance at routine activities, such as counseling sessions, medical appointments, school events, and faith-related activities.

(6) “Full-time staff” means a center staff member who works 40 or more hours per week in the same staff position or 2 or more part-time staff members who together work in the same staff position 40 or more hours per week.

(7) “Guardian” means a person appointed by a court under ch. 54, Stats., to have the duties and authority of guardianship described under s. 48.023, Stats., or ch. 54, Stats., or as defined under s. 938.02 (8), Stats.

(8) “HealthCheck provider” means a provider of health assessment and evaluation services certified under s. DHS 105.37 (1) (a).

(9) “Informed consent” or “consent” means signed written consent which is voluntary and based on understanding by a person 18 years of age or older or a minor resident as provided under law who is competent and who understands the terms of the consent, and as otherwise provided under law by the resident’s parent, guardian or legal custodian or as provided under a court order or other lawful authority.

(10) “Legal custodian” has the meaning specified in s. 48.02 (11), Stats., or in s. 938.02 (11), Stats.

(11) “Legal custody” has the meaning specified in s. 48.02 (12), Stats., or in s. 938.02 (12), Stats.

(12) “License” means written permission of the department for a center to operate, consisting of a license certificate which shows the location of the center, identifies the licensed premises and lists licensing provisions, and a licensing letter of transmittal that includes any special conditions.

(13) “Licensee” means the person, partnership, sole proprietorship, corporation or other legal entity to which a license is issued under this chapter and which has final responsibility and authority to operate the center.

(14) “Licensing representative” means a department employee responsible for licensing residential care centers.

(15) “Medical assistance” means the assistance program operated by the department of health services under ss. 49.43 to 49.497, Stats., and chs. DHS 101 to 108.

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

(16m) “Normalcy” means a resident’s ability to easily engage in healthy and age or developmentally appropriate activities that promote his or her well-being, such as participation in social, scholastic, and enrichment activities.

(17) “Parent” has the meaning specified in s. 48.02 (13), Stats., or in s. 938.02 (13), Stats.

(18) “Permanency plan” means a plan required under s. 48.38 (2), Stats., that is designed to ensure that a child placed in a residential care center is reunified with his or her family whenever appropriate, or that the child quickly attains a placement or home providing long-term stability.

(19) “Physician” has the meaning prescribed in s. 448.01 (5), Stats.

(19m) “Placing agency” means a licensed private child-placing agency; county department with powers and duties under ss. 48.57 and 938.57, Stats.; the department; the Wisconsin department of corrections; or a licensed child welfare agency from

another state authorized to place children in residential care centers.

(20) “Professional” means a person who is a Wisconsin certified alcohol or drug abuse counselor or a person with at least a bachelor’s degree from an accredited college or university who has specialized training to do therapy or counseling or to provide other treatment services or a social worker licensed under s. 457.08, Stats.

(21) “Psychiatrist” means a physician licensed under ch. 448, Stats., to practice medicine and surgery who has satisfactorily completed 3 years of residency training in psychiatry or child psychiatry in a program approved by the accreditation council for graduate medical education and is either certified or eligible for certification by the American board of psychiatry and neurology.

(21g) “Reasonable and prudent parent standard” means a standard for use in making decisions concerning a resident’s participation in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities that is characterized by careful and sensible parental decisions that maintain the health, safety, best interests, and cultural, religious, and tribal values of the resident while at the same time encouraging the emotional and developmental growth of the resident.

(22) “Resident” means a child who is admitted to and resides in a residential care center for children and youth.

(22m) “Resident care worker” means a staff person specified in s. DCF 52.12 (1) (a) 5.

(23) “Residential care center for children and youth” or “residential care center”, “center”, or “RCC” means a residential facility required to be licensed as a child welfare agency under s. 48.60, Stats., that provides treatment and custodial services for children under 21 years of age.

(23m) “RPPS decision maker” means an individual who has successfully completed training on the application of the reasonable and prudent parent standard and makes reasonable and prudent parenting decisions under s. DCF 52.415.

(24) “Staff person” means a person who is either employed by a center or under contract for a center to perform the functions identified in s. DCF 52.12 (1) (a) or (2) (i).

(25) “Treatment plan” means a written plan of services to meet the specific treatment goals and needs of an individual resident.

(26) “Type 2 residential care center” means a center designated by the department of corrections as a type 2 child caring institution that is approved by the department to operate under its residential care center license to provide care and maintenance for juveniles who have been placed in the residential care center under the supervision of the department of corrections or a county department under s. 938.34 (4d), Stats.

(27) “Type 2 status” has the meaning specified under s. 938.539, Stats., and includes the status given by the court to a youth who is placed by the court in a type 2 residential care center.

(28) “Wisconsin public purchaser” means a county department, the department, or the Wisconsin department of corrections.

**History:** Cr. Register, February, 2000, No. 530, eff. 9-1-00; corrections in (3), (5), (7), (8), (15) and (24) made under s. 13.92 (4) (b) 6. and 7., Stats., Register November 2008 No. 635; EmR1106: emerg. r. and recr. (4), am. (23), cr. (19m), (28), eff. 9-16-11; CR 11-026: r. and recr. (4), am. (23), cr. (19m), (28) Register December 2011 No. 672, eff. 1-1-12; EmR1414: emerg r. and recr. (22), am. (23), eff. 8-1-14; CR 14-054: cr. (2m), r. and recr. (22), am. (23) Register April 2015 No. 712, eff. 5-1-15; EmR1633: emerg. cr. (1m), (5m), (16m), (21g), (22m), (23m), eff. 11-18-16; CR 16-051: cr. (1m), (5m), (16m), (21g), (22m), (23m) Register July 2017 No. 739, eff. 8-1-17.

## Subchapter II — Administration

**DCF 52.11 Licensee responsibilities.** A licensee shall protect and promote the health, safety and welfare of children served and meet all applicable requirements under this chapter. If this chapter does not specify who should complete a task or function, the licensee shall make the necessary arrangements to

achieve and maintain compliance. The licensee shall do all of the following:

**(1) TABLE OF ORGANIZATION.** Maintain an up-to-date table of organization showing the center's administrative and staffing structure with position titles and lines of authority.

**(2) DOCUMENTATION OF STAFFING.** (a) Maintain all of the following records:

1. Written schedules of staff coverage that document the specific resident care workers and resident services case managers that worked each shift to meet the applicable staff-to-resident ratios in s. DCF 52.41 (3).

2. Staff payroll records.

(b) Retain records under par. (a) for 5 years and make all records immediately available upon request of the department.

**(3) OPERATION OF CENTER.** (a) Operate the center in accordance with the provisions of the center's license and in compliance with this chapter.

(b) Comply with all applicable federal, state and local laws as determined by those authorities.

**(4) NOTIFICATION OF DEPARTMENT.** (a) Notify the department in writing within one week after there is a change in the person filling the center director position.

(b) Notify the department in writing before making any general change affecting center organization, administration or operation or in the center's treatment program as described in the center's program statement and operating plan under s. DCF 52.41 (1). A general change is one that affects the overall structure of how a center is organized, administered or operated or in how a treatment program or approach is delivered.

(c) Notify the department in writing and receive approval from the department before serving a resident population that has different needs or disabilities than the resident population described in the agency plan under s. DCF 52.41 (1) (a) 3.

**(5) BONDING OF CERTAIN EMPLOYEES.** Carry a bond on any staff person who has access to the center's financial accounts and on persons permitted to sign checks or manage funds.

**(6) FINANCIAL RECORDS AND AUDITS.** (a) Arrange for an annual audit report by a certified public accountant in accordance with department guidelines.

**Note:** For further information, contact the Department of Children and Families, Bureau of Finance, 201 E. Washington Avenue, P.O. Box 8916, Madison WI 53708-8916 or (608) 267-3905.

(b) Establish and maintain an accounting system that enables a residential care center program to accurately report income and disbursements by the cost categories in the cost and service report in s. DCF 52.66 (1) (a).

(c) Be responsible for the secure and judicious use of the funds of the residential care center. Policies and practices shall be in accord with sound budgeting, disbursement, and audit control procedures.

(d) Maintain a system of business management and staffing to ensure complete and accurate accounts, books, and records are maintained.

(e) Provide the department with financial information about the residential care center upon request.

**(7) COMMUNITY ADVISORY COMMITTEE.** Make a "good faith effort" to establish and maintain a community advisory committee, pursuant to s. 48.68 (4), Stats.

**(8) MEETING WITH THE DEPARTMENT.** Meet with the department at the department's request.

**(9) KEEPING COPIES OF WRITTEN COMPLAINTS, GRIEVANCES.** Keep copies of all written complaints and grievances received under ss. 48.745 and 51.61, Stats., and reports of investigations made and of resolutions of complaints and grievances.

**(10) NOTIFICATION OF PARENTS AND DEPARTMENT RELATED TO RESIDENTS.** (a) Notify a resident's parent or guardian, legal custo-

dian, placing person or placing agency and the department as soon as possible of any injury requiring the resident's hospitalization or causing the death of the resident or relocation of the resident off center licensed premises or any reported incident of abuse or neglect under s. 48.981, Stats.

(b) Report to the department on a form prescribed by the department within 24 hours after the death of a resident when reasonable cause exists to believe that the death was related to the use of a physical restraint or a psychotropic medication or was a suicide, as required under s. 48.60 (5) (a), Stats.

**Note:** The required forms are available in the forms section of the department website at <http://dcf.wisconsin.gov> or by writing or calling any field office listed in Appendix D.

Form number CFS2091, Child's Death, Serious Injury or Egregious Incident Notification

Form number CFS2146, Serious Incident Report

Form number CFS2183, Residential Care Center Statutorily Reportable Death

**(11) FIRE REPORTING.** Notify the department as soon as possible of any fire that requires the services of the fire department or incidents which require police intervention.

**(12) INCIDENT REPORTING.** Provide a report in writing to the department describing the events leading up to and including the occurrence of any incident under sub. (10) (a) or (11), within 48 hours after occurrence of the incident. The center shall retain a copy of the report.

**(13) FILING PLAN WITH DEPARTMENT BEFORE CLOSING.** When the center is being closed, notify and file a plan with the department at least 60 days before the closing date for the placement of center residents. The plan shall include procedures for terminating operations and time limits for notifying parents or guardians and county departments or other agencies responsible for the residents in care.

**(14) OTHER NOTIFICATIONS AND REPORTING REQUIRED BY DEPARTMENT.** Comply with all other notifications and reporting the department determines appropriate such as for an incident involving the death or serious injury of a resident, a serious incident involving law enforcement, a reported incident of child abuse or neglect, a suicide attempt by a resident or a medication error adversely affecting a resident.

**(15) LIABILITY INSURANCE COVERAGE.** Carry general and professional liability insurance coverage with limits of not less than \$250,000 per person, \$500,000 per occurrence for bodily injury and \$100,000 for property damage.

**(16) COMPLIANCE WITH PROGRAM STATEMENT AND OPERATING PLAN.** Follow all policies and procedures in the center's program statement and operating plan under s. DCF 52.41 (1) and as otherwise required in this chapter or required by the department to fulfill the intent of this chapter.

**(17) COMPLIANCE WITH CAREGIVER BACKGROUND CHECK LAW.** Ensure that the center complies with ch. DCF 12, relating to background information checks on persons who will have access to center residents, and not hire, contract with or otherwise retain a person to work in any position where the person would have direct, regular contact with residents, if the person because of a specified past action is prohibited from working with residents.

**Note:** Caregiver background check requirements are also in s. 48.685, Stats.

**Note:** Make all notifications to the department required under this subsection and send all reports and plans required under this subsection to the appropriate field office of the Division of Safety and Permanence listed in Appendix D.

**(18) INSPECTIONS.** Allow the department to visit and inspect the center and be given unrestricted access to the premises. During this inspection, a licensee shall provide all of the following:

(a) Any documentation of center operations requested by the department.

(b) Any resident records requested by the department.

**(19) REQUESTS FOR INFORMATION.** Respond promptly to requests for information from the department, a placing agency, or any other governmental agency with statutory authority to see the information.

**(20) CURRENT AND ACCURATE.** Ensure that information that the licensee or center staff submits to or shares with the department, a placing agency, or any other governmental agency is current and accurate.

**(21) EMERGENCY PROCEDURES.** Have written procedures for handling an emergency including all of the following:

- (a) Calling in extra staff.
- (b) Securing the assistance of law enforcement or emergency medical personnel.
- (c) Alerting center staff and assigning roles and duties in response to the emergency.

**(22) DISASTER PLAN.** (a) File a disaster plan with the department and any placing agency that has placed a child in the center that would allow the department or placing agency to identify, locate, and ensure continuity of services to residents under the placement and care responsibility or supervision of the placing agency who are displaced or adversely affected by a disaster. The disaster plan shall include all of the following information:

1. Where a licensee, center staff, and residents would go in an evacuation, including one location in the nearby area and one location out of the area.
2. Phone numbers, electronic mail addresses, and other contact information for the licensee.
3. A list of items that the licensee or center staff will take if evacuated, including any medication and medical equipment for residents.
4. Phone numbers the licensee will call to check in with the department and placing agency.

(b) Review the disaster plan on a quarterly basis to ensure it is current and accurate. Document the quarterly review and provide the documentation to the department upon request.

**(23) DEPARTMENT MEMOS.** Register to receive department memos on child welfare licensing and child welfare policy by electronic mail. A licensee shall submit a new registration if the licensee's electronic mail address changes.

**Note:** Sign up for Child Welfare Licensing Memos at <https://dcf.wisconsin.gov/cwlicensing/signup>. Sign up for Child Welfare Policy Memos at <https://dcf.wisconsin.gov/cwportal/sign-up>.

**(24) NON-DISCRIMINATION.** Ensure that the residential care center does not discriminate against a resident based on the resident's race or cultural identification, sex, sexual orientation, age, color, creed, ancestry, national origin, disability, political affiliations, or religious beliefs.

**History:** Cr. Register, February, 2000, No. 530, eff. 9-1-00; corrections in (4) (b), (c), (16) and (17) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635; EmR1106: emerg. r. and recr. (2), (6), cr. (18) to (24), eff. 9-16-11; CR 11-026: r. and recr. (2), (6), cr. (18) to (24) Register December 2011 No. 672, eff. 1-1-12; CR 14-054: am. (intro.) Register April 2015 No. 712, eff. 5-1-15; correction in (17) made under s. 13.92 (4) (b) 7., Stats., Register March 2018 No. 747.

**DCF 52.12 Personnel. (1) STAFFING.** (a) A center shall have all of the following personnel:

1. A director employed by the center who is responsible for center operations.
2. One or more social work case work supervisors responsible for assessment and supervision of case work, service coordination and case management activities of resident services case managers through resident treatment planning reviews, case staffings and treatment record reviews.
3. One or more resident services case managers responsible for individual and group counseling of residents and individual counseling of residents and their families along with case work efforts involving residents and their families in planning, implementing and coordinating services and resources.
4. One or more resident care worker supervisors responsible for supervising and assessing resident care workers as they interact with residents and provide for the day-to-day care and supervision of residents.

5. One or more resident care workers responsible for direct care, nurturing and supervision of the residents.

6. Staff responsible for the center's recreation program.

7. Staff responsible for educational services when the center has an on-grounds education program.

(b) A center shall have the following services available for residents, either provided by professionals on staff or under agreement with professionals who are consultants for the center:

1. Health care needs assessment and supervision of the delivery of center health care services by a physician.
2. Dental care needs assessment by a dentist.
3. Services of a psychologist licensed under ch. 455, Stats., or a psychiatrist.
4. Services of other appropriately qualified professionals such as speech communication or hearing impairment specialists or occupational or physical therapists as necessary to carry out resident treatment plans.

(c) The work schedule of a resident care worker shall:

1. Specify the worker's routine and regular hours.
2. Not allow for the regular scheduling of more than 40 hours of direct care responsibilities with residents each week, exclusive of resident sleeping time, or more than 50 hours per week exclusive of resident sleeping time when the resident care worker is covering for sick leave, vacations, resignations or terminations of other staff.
3. Allow each resident care worker working longer than an 8 hour shift to have at least 15 minutes of free time during each additional 2 hour period.

**(2) STAFF QUALIFICATIONS.** Staff hired or contracted for on or after September 1, 2000, to carry out the responsibilities under sub. (1) (a) shall have the following qualifications:

(a) The center director under sub. (1) (a) 1. shall be an employee of the center, have a bachelor's degree from a college or university in business or public administration or a social or behavioral science or in a social services or human services field and have 2 years of successful related work experience in administration or supervision.

(b) The social work case work supervisor under sub. (1) (a) 2. shall be an employee of the center, have a master's degree in social work from a school of social work or in a behavioral science with 2 years of supervised work experience in a family or child welfare agency, have experience in working with the kind of populations the center serves and provide evidence of supervisory knowledge and skills.

(c) The resident services case manager under sub. (1) (a) 3. shall have education and experience which are specifically related to the client population to be served. That education and experience shall consist of the following for the type of population served:

1. Under this subdivision social or behavioral science field includes a degree in social work, sociology, psychology, speech communication or special education with certification for emotional disturbance or learning disabilities. For work with residents who are receiving services primarily for correctional aftercare or emotional disturbance, the resident services case manager shall have one of the following qualifications:

a. A master's degree in a social or behavioral science field with field work experience or employment experience working with children or families.

b. A bachelor's degree in a social or behavioral science field and either 2 years of employment experience in human services counseling involving children and families or at least 500 hours of supervised family or child contact therapy hours.

2. Under this subdivision a social or behavioral science field includes a degree in those fields specified under subd. 1. For work with residents who are receiving services primarily for alcohol or

drug problems, the resident services case manager shall have one of the following qualifications:

a. A bachelor's degree in a social or behavioral science field and Wisconsin certification as an alcohol and drug counselor or meeting the qualifications of a registered alcohol and drug counselor I from the Wisconsin alcohol council certification board.

b. An advanced professional degree in a social or behavioral science field from a college or university with at least 6 credits in courses offering content in alcohol and drug abuse treatment and counseling practicum or field experience.

c. A bachelor's degree in a social or behavioral science field from a college or university and 6 credits in courses offering content in alcohol and drug abuse treatment and counseling practicum or field experience.

d. A bachelor's degree in a social or behavioral science field from a college or university and 2 years of experience working with children in alcohol and drug abuse counseling.

3. For work with residents who are receiving services primarily for a developmental disability, the resident services case manager shall have the following education and experience qualifications:

a. A degree in a social or behavioral science field. Under this subd. 3. a. a social or behavioral science field includes a degree in social work, sociology, psychology, speech communication, special education, physical therapy or occupational therapy.

b. Specialized training or one year of employment experience in treating or working with developmentally disabled persons.

(d) The resident care worker supervisor under sub. (1) (a) 4. shall be an employee of the center and meet one of the following qualifications:

1. Possess the qualifications described under par. (c) for working with the type of population served.

2. Have 3 years of experience in public or private institutional child care for the type of population the center serves, and have one year of experience as a supervisor or satisfactory completion of at least one course for credit in supervisory skill development and personnel management or have 40 hours of documented in-service training involving supervisory skill development and personnel management.

3. Have 2 years of experience in licensed institutional child care and be certified as a child and youth care worker meeting standards of the national organization of child and youth care workers association.

(e) A resident care worker under sub. (1) (a) 5. shall be an employee of the center, have a high school diploma or equivalent and be at least 18 years old and at least 2 years older than the oldest resident. The resident care worker shall also meet one of the following qualifications:

1. Have a bachelor's or associate degree from a college or university with a focus on child and youth care work or in a social or behavioral science field.

2. Have at least one year of successful experience working in a recognized child welfare residential setting for the type of resident population served by the center.

3. Be certified as a child and youth care worker under the standards of the national organization of child and youth care workers association or other department-recognized certifying authority.

4. Have completed a supervised traineeship program under sub. (5) (g).

(f) A person under sub. (1) (a) 6. responsible for center recreational programming under s. DCF 52.41 (4) shall meet the qualifications of a resident care worker under par. (e) and have demonstrated proficiency and at least 3 months experience conducting activities in one or more recreational program areas appropriate for populations served by the center.

(g) Education staff under sub. (1) (a) 7., shall meet Wisconsin department of public instruction qualifications for the students served.

(h) Each staff person working for a center shall, where a college or university degree is required under this subsection, have the degree from an accredited college or university.

**Note:** For a list of accredited institutions of higher education in the Midwest, see "NCA Quarterly - Accredited Institutions of Post-Secondary Education" available from the North Central Associates of Colleges and Schools, 159 North Dearborn St., Chicago, Illinois 60601.

(i) A center that hires or contracts for staff not identified under sub. (1) (a) having direct care or service involvement with residents shall, for those staff, also meet the requirements for employment applications under sub. (3), job descriptions and standards and confidentiality notification under sub. (4), staff training under sub. (5), staff supervision under sub. (6), child abuse and neglect reporting under sub. (9) and personnel records under sub. (10).

**(3) EMPLOYMENT APPLICATIONS AND GENERAL QUALIFICATIONS.** (a) Before a center hires or contracts for any new staff, the center shall verify and document the qualifications of applicants considered for employment or service.

(b) A center shall require an applicant for employment to complete and sign an application form. From the required application materials, the center shall obtain:

1. The names of 2 persons not related to the prospective staff person who can vouch for the good character of the prospective staff person.

2. Employment references. The center shall verify that the applicant was employed by persons listed as employers during the past 5 years.

3. A completed background information disclosure form and background record checks as required under s. 48.685, Stats., and ch. DCF 12.

**Note:** DCF-F-2978-E, *Background Information Disclosure*, is available in the forms section of the department's website at <http://dcf.wisconsin.org> or by writing or telephoning any field office listed in Appendix D.

4. Educational background information.

(c) Upon receipt of an application, a center shall check references either by letter or phone and shall document the date of contact, the person making the contact and the person contacted and shall summarize the conversation concerning the character and experience of the person that would permit a judgment to be made about hiring or contracting, and what the relationship of the reference is to the prospective staff person or how the reference knows that person.

(d) The center shall comply with the background records check provisions under ch. DCF 12 for the hiring or contracting of center staff who will have access to residents, including, as applicable, not hiring or contracting with a person to work in any position where the person would have direct, regular contact with residents if the person answers "yes" to any question on the DCF-F-2978-E background information form which would bar that person.

**Note:** Caregiver background check requirements are also in s. 48.685, Stats.

**Note:** Refer to s. DCF 52.62 (1), General Conditions for Approval of License, with regard to the applicant or licensee being found fit and qualified to provide care to children.

(e) A center shall require that each staff person before working with residents present a statement from a physician covering at least the areas included in a form prescribed by the department indicating that the staff person does not have a communicable disease, illness or disability that would interfere with the staff person's ability to work with or care for residents.

**Note:** Form CFS0384, Child Welfare Facility Staff Health Report, is available in the forms section of the department website at <http://dcf.wisconsin.gov> or by writing or calling any field office listed in Appendix D.

(f) All staff shall have the ability and emotional stability to carry out their assigned functions and duties. Center staff whose behavior or mental or physical condition gives reasonable concern for safety of residents may not be in contact with residents in

care. If, at any time, a center suspects or has reason to believe that the physical or mental health of a center employee or other person on the premises may pose a threat to the health, safety, or welfare of a resident in care, the center shall require an alcohol or drug abuse assessment or a physical or mental health evaluation of the person.

**(4) JOB DESCRIPTIONS AND STANDARDS.** A center shall provide each new staff member under sub. (1) (a) or (2) (i) with all of the following materials and place copies dated and signed by the staff member in the staff member's personnel record:

(a) A job description specifying the staff member's roles and responsibilities.

(b) Individual performance standards, including expected staff conduct toward residents.

(c) A copy of a department form for reporting suspected child abuse or neglect.

(d) A statement calling attention to requirements under s. 48.78 or 938.78, Stats., and s. 51.30, Stats., for maintaining resident confidentiality.

**(5) STAFF TRAINING.** (a) *Approved by department.* At the time of initial licensure and every 2 years thereafter, a center, prior to implementing training required under this subsection, shall submit to the department, for approval, a description of the process and content of orientation and initial training, including the number of training hours for all new staff who work with residents and a plan for establishing and meeting ongoing training needs for all staff who work with residents.

(b) *Orientation.* Before a new staff member is permitted to work independently with residents, the center shall provide orientation training for the new staff member covering at least all of the following areas:

1. Overall center philosophy and program goals.
2. Organization and management of the center, including administrative procedures.
3. The nature of residents' emotional and physical needs.
4. Expected staff conduct toward residents, expected resident conduct, the center's house rules for residents required under s. DCF 52.42 (3) (f) and center behavior management techniques.
5. Observing and reporting resident behavior.
6. Resident rights and grievance procedures.
7. Identification and reporting of child abuse and neglect.
8. Laws on confidentiality of personally identifiable information.
9. Center procedures for reporting missing persons.
10. Fire safety and evacuation procedures.
11. Emergency medical procedures and center emergency security measures and procedures.
12. Sanitation and hygiene practices including the nature, causes, transmission and prevention of hepatitis B, human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS) and the legal, social and psychological aspects of those conditions.

(c) *Initial training.* A center shall document that a new staff member who works with residents has already received training in the following areas or the center shall provide at least 40 hours of training covering those subjects within 6 months after the staff member begins work at the center:

1. Developmental care.
2. Creating a therapeutic milieu.
3. Human sexuality.
4. Teamwork.
5. Working with groups.
6. Emergency safety intervention.
7. Family relationships and the impact of separation from the family.

8. Suicide prevention, including identification of signs and center response measures.

9. Fire safety and evacuation, with training provided by a Wisconsin vocational, technical and adult education college.

10. Sensitivity to racial and cultural differences among residents.

(cm) *Automated external defibrillator training.* A residential care center for children and youth shall have in each building housing residents when those residents are present at least one staff member who has current proficiency in the use of an automated external defibrillator, as defined in s. 256.15 (1) (cr), Stats., achieved through instruction provided by an individual, organization, or institution of higher education that is approved under s. 46.03 (38), Stats., to provide such instruction.

(d) *Working with monitor.* A newly hired resident care worker who meets one of the qualifications under sub. (2) (e) 1. to 3. may not assume independent responsibility for residents until completing 80 hours of work with residents during which assistance and guidance is provided by an experienced center resident care worker.

(e) *Educational program orientation.* A center shall provide orientation training on the center's educational program required under s. DCF 52.41 (1) (b) to center staff responsible for resident educational services before staff provide those services to residents.

(f) *Continuing training.* A center shall provide or arrange for continuing training for staff so that staff competencies necessary to meet the needs of residents are maintained and enhanced. The center shall do all of the following:

1. Determine continuing training needs through staff performance reviews and assessments.

2. Provide or arrange for at least 24 hours of continuing training annually for every staff member working with residents. Training provided or arranged by the center under par. (b) and (c) may be counted towards the required 24 hours of annual training but not training received by a staff member from a previous employer.

(g) *Traineeship.* 1. The center shall establish a traineeship for a new resident care worker who is not otherwise qualified under sub. (2) (e) 1. to 3. The trainee shall be required to work with an experienced resident care worker for at least the first 160 hours of work with residents.

2. When a traineeship program required under sub. (2) (e) 4. has been completed, the center shall note this in the resident care worker's personnel record. Documentation shall include the beginning and ending dates of the traineeship, the name of the experienced staff member who worked with the trainee and assessment of the strengths and competencies of the resident care worker by the resident care worker supervisor.

3. If, as part of the traineeship, the topics under par. (c) are covered, this training may be counted towards meeting the requirement under par. (c).

(gm) *RPPS decision makers.* A center shall ensure that an individual specified in s. DCF 52.415 (2) (b) successfully completes training on the application of the reasonable and prudent parent standard prior to making reasonable and prudent parenting decisions.

(h) *Documentation of training.* A center shall document in each staff member's personnel record all orientation and training received by the staff member. Documentation shall include dates of training and who provided the training.

**(6) STAFF SUPERVISION.** (a) A center shall provide for appropriate supervision of staff as follows:

1. There shall be at least one full-time equivalent social work case work supervisor as described under sub. (1) (a) 2. for no more than 8 full-time resident services case manager staff under sub. (1) (a) 3.

2. There shall be at least one full-time equivalent resident care worker supervisor as described under sub. (1) (a) 4. for no more than 8 full-time equivalent resident care workers under sub. (1) (a) 5.

3. The center director or professional designee shall supervise the remaining staff and consultant and service staff under subs. (1) and (2) (i).

4. The center director shall ensure that when a supervisor is absent, each staff member supervised by that person knows to whom he or she reports.

(b) Staff supervision shall include both of the following:

1. A written performance review and assessment of a staff member at least once in the staff person's first 6 months with the center and annually thereafter.

2. Filing a copy of the performance review and assessment and any written response of the staff person to it in the staff person's personnel record.

**(7) VOLUNTEERS AND STUDENT INTERNS.** A center that accepts unpaid college students on field placement or volunteers to provide services to residents shall do all of the following:

(a) Verify the individual's qualifications to work with residents through character reference checks and background verification and a signed statement under sub. (3) (b) and (c), a caregiver background records check under sub. (3) (d) and a physician's statement under sub. (3) (e).

(b) Maintain a list of volunteers and students on field placement working in the center and have a written description of the job responsibilities of each. The center shall provide a copy of a particular student's or volunteer's job responsibilities to the student or volunteer. The description shall include the following:

1. A statement of the purpose of the student's or volunteer's involvement, role and responsibilities.

2. Identification of a staff member meeting, at minimum, the requirements under sub. (2) for a resident care worker who will supervise the student or volunteer.

3. An indication of the extent to which the student or volunteer will be able to contribute to development of a resident's service plan or plan progress reviews.

(c) Orient students and volunteers on subjects listed under sub. (5) (b) before permitting them to work with residents.

(d) Have each student or volunteer sign a department-provided statement acknowledging the student or volunteer's responsibility for reporting any suspected child abuse and neglect under sub. (9) and for maintaining confidentiality of resident record information in accordance with s. 48.78 or 938.78, Stats., and s. 51.30, Stats.

(e) Maintain a personnel record on each student and volunteer. The record shall contain the documentation required in this subsection. The center shall maintain the record for 5 years after last date of service.

(f) Follow a policy of not using volunteers or students to replace staff required under sub. (1).

**(8) EXTERNAL PROFESSIONAL SERVICES.** (a) A center may contract for or otherwise arrange for professional services not provided by the center when necessary for implementation of a resident's treatment plan. If a center does contract for or otherwise arrange for external professional services, the center shall do all of the following:

1. Maintain a list of all external professional service providers.

2. Require that each external professional service provider have the appropriate license or certification.

3. Require that each external professional service provider provide written reports to the center on the resident's progress.

(b) A center arranging for an outside specialist or consultant to treat or advise about treating a dysfunctional behavior or condi-

tion of a resident shall notify the resident's placing person or agency in writing if the outside specialist or consultant states that the resident needs follow-along and support services. The center shall inform the placing person or agency of specialist or consultant recommendations for the resident including the needs, types of follow-along or support services and the amount of recommended time needed for those efforts. Center staff shall document the recommendations and notification in the resident's treatment record.

**(9) CHILD ABUSE AND NEGLECT REPORTING.** (a) A center shall at all times protect residents from abuse or neglect.

(b) A center shall require each staff member, student intern and volunteer to read and sign a statement provided by the department which describes the individual's responsibility to report suspected child abuse or neglect as required under s. 48.981 (2) and (3), Stats.

**Note:** Form number CFS2172, Residential Care Center Child Abuse and Neglect Reporting and Confidentiality Responsibilities, is available in the forms section of the department website at <http://dcf.wisconsin.gov> or by writing or calling any field office listed in Appendix D.

(c) A center shall have written policies and procedures for reporting to the appropriate local county social or human services department or law enforcement agency when there is reasonable cause to suspect that a child has been abused or neglected. The policies and procedures shall include:

1. Notifying the child's placing person or agency and the department licensing representative of possible abuse or neglect and the basis for that suspicion.

2. Meeting reporting requirements in s. 48.981 (2) and (3), Stats.

3. Prohibiting imposition of a sanction or any reprisal against a person for reporting suspicion of child abuse or neglect.

(d) When child abuse or neglect is reported, the center shall take necessary steps to protect the resident until a finding is made.

**(10) PERSONNEL RECORDS.** (a) *General personnel records.* A center shall maintain a personnel record for each staff member under subs. (1) (a) and (2) (i). The record shall contain, at minimum, the following information:

1. The staff member's application for employment under sub. (3) (b).

2. Copies of the staff member's job description and the performance standards and conduct expectations relating to that job required under sub. (4) (a) and (b).

3. Documentation of information obtained from a staff member's references required under sub. (3) (c).

4. The department-prescribed background information disclosure form, signed as required under sub. (3) (d).

5. A history of the staff member's employment at the center, with starting and ending dates for each position.

6. A copy of the signed department form under sub. (4) (c) for reporting suspected child abuse and neglect.

7. A copy of the background records checks required under sub. (3) (d).

8. A copy of the statement under sub. (4) (d), signed by the staff member, about the need to maintain confidentiality of personally identifiable information about residents.

9. Copies of completed performance reviews and assessments under sub. (6) (b).

10. A description of training received under sub. (5) (h).

11. Authorization to administer medications, if applicable, as required under s. DCF 52.46 (2) (a) 3.

12. For RPPS decision makers, documentation of the training under sub. (5) (gm).

(b) *Health record.* A center shall separately maintain a health record for each staff member containing health history, any physical or mental health evaluation under sub. (3) (f) and the physician's statement required under sub. (3) (e).

(c) *Retention.* A center shall maintain the personnel file of each staff member for 5 years after the date on which the staff member terminates employment with the center.

**(11) STAFF HOUSING.** A residential care center may not house children of staff with residents.

**History:** Cr. Register, February, 2000, No. 530, eff. 9-1-00; corrections in (2) (f), (3) (b) 3., (d), (5) (b) 4., (e) and (10) (a) 11. made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635; EmR1106: emerg. cr. (5) (cm), (11), eff. 9-16-11; CR 11-026: am. (3) (e), (5) (c) 6., cr. (5) (cm), (11) Register December 2011 No. 672, eff. 1-1-12; CR 14-054: am. (8) (b) Register April 2015 No. 712, eff. 5-1-15; EmR1633: emerg. cr. (5) (gm), (10) (a) 12., eff. 11-18-16; CR 16-051: cr. (5) (gm), (10) (a) 2. Register July 2017 No. 739, eff. 8-1-17; correction in (12) (c) 3. a. made under s. 35.17, Stats., Register September 2017 No. 741; correction in (3) (b) 3., (d) made under s. 13.92 (4) (b) 7., Stats., Register March 2018 No. 747.

**DCF 52.13 Administrative records. (1) TYPES OF RECORDS.** A licensee shall assemble and maintain all of the following administrative records:

(a) A document describing the governing structure of the center and, if they exist, the charter, articles of incorporation and by-laws of the governing body.

(b) The names and positions of persons authorized to sign agreements and submit official documentation concerning the center to the department.

(c) The table of organization and staffing schedules for the center as required under s. DCF 52.11 (1) and (2).

(d) Audit reports required under s. DCF 52.11 (6), retained for 5 years.

(e) Incident reports under s. DCF 52.11 (12) of a fire or other disaster, retained for 5 years.

(f) Copies of general and professional liability insurance policies required under s. DCF 52.11 (15).

(g) The list required under s. DCF 52.12 (8) (a) 1. of all external professional service providers the center uses.

(h) Personnel records under s. DCF 52.12 (10), retained for 5 years after the employee leaves the center.

(i) The center's program statement and operating plan and updates to it required under s. DCF 52.41 (1), and as otherwise required under s. DCF 52.58 (3) or 52.59 (4), as well as copies of current written policies and procedures otherwise required by this chapter.

(j) Menus for the last 30 days as required under s. DCF 52.44 (3) (b).

(k) Driver records required under s. DCF 52.47 (4) for center drivers.

(L) Documentation required under s. DCF 52.44 (4) (d) of annual in-service training of food service personnel.

(m) Copy of vehicle insurance liability policy required under s. DCF 52.47 (6) (a) 1. and vehicle safety inspection forms required under s. DCF 52.47 (6) (a) 1.

(n) Police accident reports under s. DCF 52.47 (7).

(o) Reports of building inspections required under s. DCF 52.51 (1) (b) and construction approvals required under s. DCF 52.51 (1) (c), retained for 5 years.

(p) Records of fire drills, center fire inspections, smoke detector tests and sprinkler system inspections required under s. DCF 52.55 (2) (b), (3), (4) (c) and (7) and annual heating system inspection and service reports required under s. DCF 52.56 (2) (b), retained for 5 years.

(q) Water sample test results under s. DCF 52.56 (1) and records of tornado practice exercises required under s. DCF 52.56 (23) (c), retained for 5 years.

(r) Copies of all need determination documentation and approvals within the past 5 years under s. DCF 52.61.

**(2) RECORDS MAINTAINED ON-SITE.** The administrative records listed under sub. (1) (c), (e), (g) to (k), (n), (p) and (q) shall be maintained on-site at the center location to which they apply.

**History:** Cr. Register, February, 2000, No. 530, eff. 9-1-00; corrections in (1) (c) to (r) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635.

### Subchapter III — Admission, Treatment and Planning and Discharge

#### DCF 52.21 Admission. (1) POLICIES AND PROCEDURES.

A center shall have written resident admission policies and procedures that describe the primary presenting problems and range of behaviors of residents which the center will treat and center procedures for admitting a resident. Before a prospective resident is admitted to a center, center professional staff shall evaluate the needs of the prospective resident using information and procedures described in the agency program statement and operating plan and determine whether the center is able to meet the identified needs of the prospective resident.

**(2) ADMISSION SCREENING REPORT.** Center professional staff shall complete a written, dated and signed admission screening report on a resident which includes a preadmission review and identification of the prospective resident's primary presenting problems and a statement recommending reasons for or against admission based on the ability of the center to meet the prospective resident's needs.

**(3) CONDITIONS.** A center may admit a prospective resident if the center can meet the prospective resident's needs, as determined by the admission screening report under sub. (2) and if the following conditions are met:

(a) *Interstate placements.* In accepting a prospective resident from outside the state of Wisconsin, the center has received prior written approval under the interstate compact on the placement of children under s. 48.988, Stats., and has received information on the prospective resident's social, medical and educational history.

(b) *Child under age 7.* In admitting a child age 6 or under, the center has received prior written approval from the department. A center shall meet any additional requirements determined appropriate by the department for the care and treatment of a child age 6 or under.

(c) *Consent for medical care.* The center has obtained written consent for medical services as required under sub. (4).

(d) *Serving children 18 years of age or over, but under 21 years of age.* In admitting residents age 18 or over:

1. The center has a license to provide care and maintenance to a resident of that age, sex, and population type.

**Note:** A current licensee may request an amendment to serve a resident population that is 18 years of age or over, but under 21 years of age, and is transitioning to independence under s. DCF 52.62 (4) (d).

2. The center program statement under s. DCF 52.41 (1) describes how all of the following are achieved:

a. Center program compatibility among residents.

b. Age appropriate grouping in center activities and living arrangements.

c. Transition-to-independence planning.

**(4) SERVICE CONTRACTS.** As permitted under s. 48.61 (2), Stats., a center may enter into a contract with a prospective resident's parent or guardian or a contract or other agreement with the prospective resident's legal custodian or placing person or agency, if not the same, for the center to provide services for a person admitted to the center. The center shall maintain all service contracts and agreements for a resident either in the resident's treatment record or in an administrative record. A contract or other agreement shall include all of the following:

(a) Expectations and responsibilities of both parties, including a clear division of responsibility and authority between the center and the parent or guardian, legal custodian and placing person or agency, if not the same, for decisions on resident treatment plan services and activities, including any changes in them, both inside and outside the center, as described in the resident's treatment plan under s. DCF 52.22 (2) (b).

(b) The financial arrangements for the resident, and provision for periodic review of case plan progress under s. DCF 52.22 (3).

(c) Visiting plans by parents and other persons important to the resident.

**(5) INFORMED CONSENT FOR MEDICAL AND DENTAL SERVICES.**

(a) Before a center may admit a prospective resident, the center shall obtain written, signed informed consent that gives the center health care consultant or resident's physician the following authority:

1. Authority to order or provide to the resident routine medical services and procedures, including scheduled immunizations and dental services and non-prescription and prescription medications.

2. Authority to delegate and supervise administration of medications by center-authorized staff and for staff to handle and provide the medication to the resident and observe self-administration of the medication by the resident.

3. Authority to obtain other medical information on the resident.

4. Authority to provide or order when there is a life-threatening situation, emergency medical procedures, including surgery, when it is not possible to immediately reach the person or authority authorized to give signed written specific informed consent.

(b) The consent under par. (a) does not cover administration of psychotropic medications, major surgery not of an emergency nature or major dental work. Consent for these shall be obtained in accordance with the provisions of this chapter.

**(6) PRE-PLACEMENT VISIT.** A center shall arrange, whenever possible, with the placing person or agency for a pre-placement visit for the prospective resident and, whenever possible, shall invite the parent or guardian to participate. During a pre-placement visit, center staff shall provide the prospective resident and his or her parent or guardian with an orientation to the center's program.

**(7) ADJUSTMENT FACILITATION.** At the time of admission, center staff shall do all of the following:

(a) Orient the new resident and his or her parent or guardian and legal custodian to the center's facilities and program, if this was not done under sub. (6).

(b) Help the new resident to adjust to the effects of separation from his or her family and to center placement.

(c) Give the new resident and his or her parent or guardian and legal custodian copies of the house rules, including rules on visiting, expected behavior and sanctions for misbehaving and resident rights and grievance and complaint procedures, with explanations of them.

**(8) HEALTH SCREENING.** (a) *Examination.* Upon admission of a new resident, a center shall do one of the following:

1. Obtain either from a certified HealthCheck provider or licensed physician the results of a physical examination of the young person comparable to a comprehensive HealthCheck screening, that has taken place within one year before admission, and from a licensed dentist the results of a dental examination of the young person that was done within one year before admission.

2. Arrange for a health examination of the new resident to take place within 2 working days after admission, and a dental examination to take place within 90 days after admission. The health examination shall cover the areas prescribed in a form provided by the department.

**Note:** Copies of the Department's age-appropriate HealthCheck examination forms can be obtained from any local public health agency, from the Department's website at <http://dhs.wisconsin.gov/forms/FtoM.asp> or by writing or telephoning any field office listed in Appendix D.

(b) *Observation.* An observation shall be made on each person at the time of his or her admission to the center by a person capable of recognizing common signs of communicable disease or other evidence of ill health. If the person admitted shows overt signs of communicable disease or other evidence of ill health, the center shall make arrangements for immediate examination by a physician. If the person admitted has a risk of having a sexually trans-

mitted disease because of recent sexual abuse history or sexual activity, the center shall immediately consult with a physician and follow whatever precautionary measures are recommended by the physician and shall make arrangements for examination by a physician to take place as soon as possible.

**(9) REGISTER.** The center shall maintain a register of all residents. The register shall contain the date of admission and resident identifying information including name, birthdate, sex, the name and address of the placing person or agency and the name and address of a parent or guardian and legal custodian or, if the resident is 18 years of age or over, the name and address of the lawful placing authority and the name of the resident's guardian, if applicable. If the resident is from another state, the register shall also identify the state.

**History:** Cr. Register, February, 2000, No. 530, eff. 9-1-00; corrections in (3) (d) 1., 2., (4) (a) and (b) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635; EmR1414: r. and recr. (3) (d) (title), 1., am. (3) (d) 2. a., r. and recr. (3) (d) 2. c., am. (9), eff. 8-1-14; CR 14-054: r. and recr. (3) (d) (title), 1., am. (3) (d) 2. a., r. and recr. (3) (d) 2. c., am. (9) Register April 2015 No. 712, eff. 5-1-15; correction in (1) made under s. 13.92 (4) (b) 1., Stats., Register March 2018 No. 747.

**DCF 52.22 Assessment and treatment planning and review.**

**(1) TIMELINESS.** Within 30 days after resident center admission, center professional staff and, as necessary, outside consultants, shall conduct an initial assessment of the resident's treatment and service needs and, based on that assessment, shall develop for the resident a written treatment plan. In developing the treatment plan, center staff shall, if possible, involve all of the following:

(a) The placing person or agency.

(b) Resident care worker staff who work with the resident.

(c) The resident, if 12 years of age or older.

(d) 1. If the resident is under age 18, the resident's parents or guardian and legal custodian, if any, and other persons important to the resident.

2. If the resident is 18 years of age or over, other authorities or agencies involved in the resident's placement; the resident's guardian, if any; and, with the resident's consent, other persons important to the resident.

**(2) ASSESSMENT AND TREATMENT PLAN DEVELOPMENT.** (ag) The treatment plan for a new resident shall be based on the initial assessment under sub. (1) (intro.) and incorporate information documented on the forms required under ch. DCF 37.

**Note:** The forms required under ch. DCF 37 are DCF-F-872A-E, *Information for Out-of-Home Care Providers, Part A* and DCF-F-872B-E, *Information for Out-of-Home Care Providers, Part B*. Both forms are available in the forms section of the department website at <http://dcf.wisconsin.gov> or by writing the Division of Safety and Permanence, P.O. Box 8916, Madison, WI 53708-8916.

(am) The treatment plan for a new resident shall address all of the following:

1. Behavioral functioning.

2. Psychological or emotional adjustment.

3. Personal and social development.

4. Familial relationships and family history.

5. Medical and health needs as indicated by the health screening under s. DCF 52.21 (8).

6. Educational and vocational needs.

7. Independent living skills and adaptive functioning.

8. Recreational interests and abilities.

(b) The treatment plan shall be time-limited, goal-oriented and individualized to meet the specific needs of the resident as identified from the assessment and shall include all of the following components:

1. The resident's treatment goals and permanency planning goals which specify whether the resident is to return as quickly as possible to his or her family or attain another placement providing long-term stability.

2. A statement of behavioral or functional objectives that specifies behaviors to be changed, eliminated or modified, and includes projected achievement dates, with measurable indicators

or criteria for monitoring progress and assessing achievement of treatment goals. The statement shall identify all staff responsible for working with the resident in achieving the objectives.

3. Conditions for discharge of the resident.

4. When applicable, a description of any specialized service contracted by the center for the resident under s. DCF 52.12 (8).

5. Identification of services and their arrangements on behalf of the resident and his or her family.

(c) 1. A treatment plan shall be dated and signed by center staff who participated and by the placing person or agency when participating.

2. A copy of the center's dated and signed treatment plan shall be provided to the resident's placing person or agency and upon request, anyone else participating in the treatment planning process.

**(3) IMPLEMENTATION AND REVIEW.** (a) A resident's services case manager shall coordinate, monitor and document the following in the resident's treatment record during implementation of the resident's treatment plan:

1. Assessment of the resident's progress in response to treatment, in dated summary form, using criteria found in the resident's treatment plan.

2. Significant events relating to implementation of the resident's treatment plan.

(b) At least once every 3 months, the center shall conduct a treatment plan review that includes a review of reasonable and prudent parenting requests and decisions made for a resident and the resident's progress toward meeting treatment plan goals. If available, the individuals who participated in the development of the resident's assessment and treatment plan shall be invited to participate in the review.

(bm) The center shall conduct a treatment plan review and revise the treatment plan as needed, consistent with the resident's needs, treatment plan goals, and the permanency planning goals of the placing person or agency.

(c) Center staff shall record in the resident's treatment record the results of all treatment plan reviews, the date of each review and the names of participants.

**History:** Cr. Register, February, 2000, No. 530, eff. 9-1-00; corrections in (2) (a) 5. and (b) 4. made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635; EmR1414: emerg. renum. (1) (d) to (1) (d) 1., 2. and am., eff. 8-1-14; CR 14-054: renum. (1) (d) to (1) (d) 1., 2. and am. Register April 2015 No. 712, eff. 5-1-15; EmR1633: emerg. renum. (2) (a) to (2) (am) and am. (2) (am) (intro.), cr. (2) (ag), r. and recr. (3) (b), cr. (3) (bm), eff. 11-18-16; CR 16-051: renum. (2) (a) to (2) (am) and am. (2) (am) (intro.), cr. (2) (ag), r. and recr. (3) (b), cr. (3) (bm) Register July 2017 No. 739, eff. 8-1-17.

**DCF 52.23 Discharge and aftercare.** (1) **POLICIES AND PROCEDURES.** A center shall have written policies and procedures which explain the process for discharge of a resident. Those policies and procedures shall ensure that center professional staff document and date in the resident's treatment record all of the following:

(a) That center professional staff have attempted involvement of the resident, if able to understand, and the resident's parents or guardian and legal custodian, if any, and placing person or agency, if different, in developing the plan for aftercare.

(b) That center professional staff have prepared in writing, at least 30 days before the planned discharge of the resident, an aftercare plan for the resident that includes all of the following:

1. Identification of persons and agencies participating in development of the aftercare plan.

2. Recommendations for continuing or additional services and identification of service providers.

3. The name, address and telephone number of the person or agency to receive the former resident upon discharge and the relationship, if any, of the former resident to that person or the head of that agency.

(c) That center professional staff have provided copies of the aftercare plan to the resident, if able to understand, and the resident's parents, guardian and legal custodian and placing person or agency if not the same.

**(2) PREPARATION FOR DISCHARGE.** (a) The center shall document in the resident's treatment record efforts made by center staff to prepare the resident and the resident's family for discharge including but not limited to, discussing with them their feelings about becoming a family unit again or, where applicable, efforts to help the resident and resident's family adjust to a different placement or living arrangement.

(b) Each resident who has not had a health examination within the periodicity schedule of the medical assistance HealthCheck program shall have a complete health examination before discharge.

(c) The center shall ensure that at discharge a resident's personal clothing and belongings go with him or her.

**(3) DISCHARGE SUMMARY.** The center shall send to the placing person or agency within 30 days following the resident's discharge a copy of the former resident's discharge summary and place a copy in the former resident's treatment record. The discharge summary shall include all of the following:

(a) The date and reason for discharge.

(b) A summary of services provided during care.

(c) An assessment of goal achievement.

(d) A description of remaining needs.

**(4) ADDITIONAL PROVISIONS FOR RESIDENTS FROM OUT-OF-STATE.** The center shall notify the department's interstate compact office at the end of each month of all out-of-state resident discharges from the center for that month, who received each resident at discharge and the destination of the resident at discharge.

**Note:** Mail or fax written information of the above to: Department of Children and Families, Interstate Compact on Placement of Children, Division of Safety and Permanence, 201 E. Washington Avenue, P.O. Box 8916, Madison, WI 53708-8916. The fax number is (608) 266-5144 - attn. ICPC.

**History:** Cr. Register, February, 2000, No. 530, eff. 9-1-00.

## Subchapter IV — Resident Rights

**DCF 52.31 Resident rights and grievance procedure.** (1) **APPLICABILITY.** (a) Residents receiving services for a mental illness, alcohol or drug abuse or a developmental disability have the patient rights under s. 51.61, Stats., and ch. DHS 94 and shall have access to grievance resolution procedures that meet standards set out in subch. III of ch. DHS 94. Other residents receiving treatment services under this chapter who are not specifically identified as coming under s. 51.61, Stats., and ch. DHS 94 shall have rights that are comparable and access to grievance resolution procedures that are comparable.

(b) A resident's rights under this section are subject to the rights, duties and responsibilities of the resident's parent or guardian and legal custodian, if any. A resident's rights are also subject to the terms and conditions of any court order or other lawful authority governing the conduct of the resident and subject to any limitations or denial of a right allowed under s. 51.61, Stats., ch. DHS 94 and this section.

(c) Center staff at the time of a resident's admission or within 48 hours after admission shall give the resident, if able to understand, and the resident's parents or guardian and legal custodian, if any, an explanation, both orally and in writing, of resident rights under s. 51.61, Stats., ch. DHS 94 and this section.

**(2) COMPLIANCE ASSURANCE.** The center director shall ensure that all staff who work with residents are aware of the requirements of this section. The director shall also ensure that staff are aware of the requirements of s. 48.78 or 938.78, Stats., s. 51.30, Stats., and ch. DHS 92 on confidentiality and s. 51.61, Stats., and ch. DHS 94 on patient rights and the rights otherwise accorded under this section and the criminal and civil penalties for violating those statutes and rules. The rights and grievance procedures shall

be posted in a conspicuous location in each living unit in the center.

**History:** Cr. Register, February, 2000, No. 530, eff. 9-1-00; corrections made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635.

## Subchapter V — Program Operation

**DCF 52.41 Center program. (1) PROGRAM STATEMENT AND OPERATING PLAN.** Each center shall have a written program statement describing center treatment purpose, philosophy, approach and methods used, and services available, as well as a written operating plan describing available treatment and services as specified under pars. (a) to (d). A center shall give a copy of the current center program statement and, upon request, the center operating plan, and all updates, to each resident's placing person or agency and, if not the same, the resident's parents or guardian and legal custodian, if any. A center's operating plan shall describe all of the following:

(a) *Treatment.* Treatment program policies and procedures covering all of the following:

1. Treatment purpose, philosophy and services.
2. Qualifications of staff responsible for planning and carrying out treatment procedures.
3. The population served by age and sex and by type, such as developmentally disabled, emotionally disturbed, alcohol or drug abusing, transitioning to independence, juvenile delinquent or correctional aftercare, and the range or types of behaviors or conditions for which the center's treatment procedures and techniques are appropriate.
4. Pre-screening procedures used for determining appropriateness of admission.
5. Procedures used to involve the resident and the resident's parents or guardian and legal custodian, if any, in resident assessment and treatment planning including identification of the means used to foster positive relationships between the resident and the resident's family or guardian that are supportive of the resident in reaching treatment plan and permanency plan goals.
6. How the center will implement and review specific provisions of the resident's treatment plan, court order and permanency plan developed under s. 48.38, Stats., including how the center will coordinate efforts with the placing person or agency and other involved persons or agencies.
7. Methods used by the center for determining when treatment goals are achieved, or that treatment is ineffective or detrimental for a particular resident.
8. Resident conduct as governed by center behavior management and control procedures or measures including house rules covering policies on resident overnight visits outside the center and off-grounds privileges and any resident rights limitations under s. DCF 52.31 prohibiting such things as gang-related clothing or therapeutically contraindicated items.
9. A list of daily activities available to residents including educational and recreational activities.
10. Procedures which ensure clear communication between resident care workers on one shift and the resident care workers on the next shift regarding any significant incident involving a resident they supervise in common such as running away, an incident of abuse or neglect pursuant to s. 48.981, Stats., a behavior that injures the resident or others, an accident requiring medical attention, intentional property damage, any emergency safety intervention physical hold restraint or physically enforced separation as defined under s. DCF 52.42 (1) or any other incident of a serious nature. The procedures shall include documenting any incident involving a resident and the date and time it occurred in the resident's case record and, if pertinent to resident treatment, in the resident's treatment record progress notes.

11. Methods used by the center to evaluate its treatment program.

(b) *Educational program services.* Educational program services that coordinate a resident's educational programming with the school from which the resident came upon admission and the school which will receive the resident after center discharge and that cover all of the following:

1. Procedures for referring residents to public schools when not part of an on-grounds program.
  2. Procedures for relating each resident's treatment plan goals under s. DCF 52.22 (2) (b) to educational goals and services based on the resident's needs.
  3. Identification of all center staff, schools and agencies responsible for resident education.
  4. Provision for either the center case work supervisor or a resident's services case manager to coordinate efforts with persons responsible for the resident's education. This shall include arranging, where possible, for educational personnel to participate in assessment of a new resident's needs and development of the resident's treatment plan under s. DCF 52.22 (2) and treatment plan implementation and review conferences under s. DCF 52.22 (3) (b). Center staff identified under subd. 3., shall ensure that a report of the resident's educational assessment and progress is given to the school or persons responsible for the individual's education following discharge from the center.
  5. Procedures and timelines for assessing the educational progress of each resident. The procedures shall identify center staff involved in educational assessment, and how assessment information will be used in the review, implementation and revision of a particular resident's treatment plan and educational services.
  6. Arrangements for provision of vocational training opportunities under s. 118.15 (1) (b), Stats.
  7. Compliance with applicable parts of ss. 115.77, 115.81 and 118.165, Stats., and cooperation with the Wisconsin department of public instruction in providing regular or exceptional educational services to residents.
- (c) *Health care services.* Health care services provided to residents that include needed preventive, routine and emergency medical and dental care through all of the following:
1. Assessment on a regular basis of the general health and dental needs of each resident.
  2. Education of residents by someone medically knowledgeable about the hazards of tobacco use, drugs and alcohol abuse and, where appropriate, about human sexuality, family planning materials and services, sexually transmitted diseases and how the human immunodeficiency virus (HIV) is transmitted.
  3. Immunization of residents, unless otherwise directed in writing by a physician, according to ch. DHS 144.
  4. Arrangement with a physician or a clinic employing a physician to serve as consultant for health care arranged by the center for residents.
  5. Provision for psychological testing, psychiatric examination and treatment as necessary to meet a resident's needs by having consultation and services available from a psychiatrist licensed as a physician under ch. 448, Stats., or a psychologist licensed under ch. 455, Stats.
  6. Provision for at least 2 dental examinations and cleanings for each resident each year and for other dental examinations and services for residents, as needed, from a dentist licensed under ch. 447, Stats., or a clinic employing dentists licensed under ch. 447, Stats.
  7. Availability of emergency medical services 24 hours a day, 7 days a week.

8. Explanation given to a resident in language suitable to the resident's age and understanding about any medical treatment he or she will receive.

9. Policies and procedures for hospitalizing a resident, for providing first aid to a resident and for administration of medications in accordance with s. DCF 52.46 (2).

10. Identification of the circumstances that constitute a medical emergency, and instructions to staff on action to take when suspecting the existence of a medical emergency.

11. Compliance with ch. DHS 145 for the control and reporting of communicable diseases.

12. Arrangements for the center's health care consultant under subd. 4. to annually document and date a review of the adequacy of center health care service delivery including center procedures for administration, storage and disposal of medications as provided under s. DCF 52.46 (3).

(d) *Reasonable and prudent parent standard.* Policies and procedures on how the center complies with the requirements of the reasonable and prudent parent standard, including all of the following:

1. How the communication log under sub. (1m) will be used to inform different shifts of resident care workers and RPPS decision makers of reasonable and prudent parenting requests and decisions made for a resident under s. DCF 52.415 for activities that do not take place in the residential care center and are not supervised by a staff person.

2. How the information on the forms required under ch. DCF 37 will be incorporated into a new resident's treatment plan, as required under s. DCF 52.22 (2) (ag).

3. How the center will ensure the presence on-site of at least one RPPS decision maker at all times.

4. A process for annually reviewing the parameters and requirements of the reasonable and prudent parent standard in conjunction with the center's corresponding policies and procedures.

**Note:** DCF-F-5123-E, *Reasonable and Prudent Parent Standard Review*, is an optional form that a center may use to assist with the annual review. The form is available in the forms section of the department website at <http://dcf.wisconsin.gov> or by writing the Division of Safety and Permanence, P.O. Box 8916, Madison, WI 53708-8916.

**(1m) COMMUNICATION LOG.** (a) A residential care center shall require each shift of resident care workers and RPPS decision makers to use a communication log to document and communicate with other resident care workers and RPPS decision makers about residents whom they supervise in common. The communication log shall include all of the following for each shift:

1. Each resident's location, behavior, and program participation.

2. Significant incidents involving a resident as provided in sub. (1) (a) 10. and the center's corresponding policy.

3. Reasonable and prudent parenting requests and decisions made for residents under s. DCF 52.415 for activities that do not take place in the residential care center and are not supervised by a staff person.

4. Staff arrival and departure times.

(b) A residential care center may designate units within the center and require resident care staff and RPPS decision makers to use a separate communication log in each unit.

**(2) PROGRAM PLANNING AND SCHEDULING.** (a) A center shall have a written daily program of general activities which meet the developmental needs of the residents.

(b) The program of activities shall provide each resident with experiences which encourage self-esteem and a positive self-image through:

1. Leisure-time activities.

2. Social interaction within the center and, if appropriate, the community.

3. Self-expression and communication.

4. Gross and fine motor development.

5. Daily living activities, including but not limited to, grooming and hygiene, toileting and common household chores such as making beds, cooking and washing clothes.

6. Interpersonal relations with peers, family, friends, staff and where possible and as appropriate, members of the opposite sex.

7. Opportunity for paid work within the constraints of child labor laws, resident rights and the resident's treatment plan.

(c) A center shall make maximum use of small groups to aid individual residents in preserving or attaining a sense of personal identity in daily living. The center shall:

1. Group residents according to age, developmental levels and social needs, with the ages of residents being primarily within a 4 year age range but not to exceed a 6 year age range.

2. Group residents under supervision of their own resident care worker and give a group opportunities to form and attain group self-identity in daily living and social activities.

(d) A center shall ensure that nonambulatory residents:

1. Spend a major portion of the daytime hours out of bed.

2. Spend a portion of the daytime hours out of their bedroom area.

3. Have planned daily activity and exercise periods.

4. Are able to move around by various methods and devices whenever possible.

**(3) STAFF-TO-RESIDENT RATIO.** (a) In this subsection, "supervision" means guidance of the behavior and activities of a resident by a staff member to ensure the safety and well-being of the resident.

(b) The staff-to-resident ratios for staff providing supervision of residents shall be as follows:

1. '1:8 during waking hours.' A residential care center shall have at least one staff member awake and providing supervision for every 8 or fewer residents present in a program unit during waking hours.

2. '1:15 during sleeping hours.' A residential care center shall have at least one staff member awake and providing supervision for every 15 or fewer residents present in the program unit during sleeping hours. Each staff member shall be within hearing or call of residents being supervised without reliance on the use of electronic monitoring devices.

3. 'Congregate living area.' A licensee shall ensure that a staff member provides sight and sound supervision at all times in each congregated living area of the center when residents are present. In this subdivision, "congregate living area" means any area in a center used for living or recreation except a bedroom, bathroom, or hallway.

(c) The staff-to-resident ratios in par. (b) are the minimal staffing requirements for resident care staff. The number of resident care staff providing supervision shall be increased as necessary to meet the needs of residents and to ensure their safety and welfare.

**Note:** Section DCF 52.55 (1) (b) 1. requires that staff can safely evacuate all residents from the center in one trip for fire safety.

(d) No resident may be in a residential care center without supervision by a staff member.

(e) A licensee shall ensure that supervision is provided for each resident appropriate to the resident's age, maturity, behavior, and developmental level and sufficient to ensure the safety of all residents in the residential care center.

(f) Supervision of residents shall be by a staff member who meets or exceeds the qualifications of a resident care worker under s. DCF 52.12 (2) (e).

(g) An inexperienced resident care worker who is required to take the traineeship program s. DCF 52.12 (5) (g) may only be counted in the ratios in par. (b) if the trainee is working with an

experienced resident care worker who meets the qualifications in s. DCF 52.12 (2) (e).

(h) A residential care center shall have at least one full-time equivalent resident services case manager under s. DCF 52.12 (1) (a) 3. for every 16 or fewer residents. A residential services case manager who is working less than full-time may have a maximum caseload that is the equivalent of 2.5 hours per week for each resident.

(4) RECREATION. (a) A center shall provide leisure and recreational programming suitable for the ages, abilities and interests of the center's residents. This programming shall be consistent with the center's overall program goals and shall offer residents a variety of indoor and outdoor recreational activities.

(b) A center shall have well drained outdoor recreation areas that are free of hazards.

(5) RELIGIOUS PRACTICES. A center shall provide residents with opportunities for voluntary religious expression and participation. The center shall:

(a) Have written policies on religious training.

(b) Obtain the written consent of the resident's parent or guardian for church attendance and religious instruction when agency practice varies from that of the resident or the resident's family.

(c) Arrange for residents to participate in religious exercises in the community whenever possible.

(6) CENTER APPLIED POLICIES AND PROCEDURES. Center policies and procedures affecting residents and their interests shall be applied in a consistent and fair manner.

(7) OTHER SERVICES. (a) A center may operate on the center grounds other services or enterprises not governed by the center's license only if the center obtains the written consent of the department. Examples of other center nonresident services that may be allowed by the department to operate on center grounds are shelter care services, outpatient counseling services, day treatment services and day student educational services.

(b) A center which provides temporary shelter care services need not obtain a separate shelter care license under ch. DCF 59 if the personnel requirements in s. DCF 52.12 or 59.04, the child care requirements found in s. DCF 59.05, the requirements for records and reports found in s. DCF 59.07 and the physical plant standards in subch. VI of this chapter or in s. DCF 59.06 are met.

(8) RESIDENT ACCOUNTS AND RESTITUTION PLAN. (a) The center shall have procedures for maintaining and managing a separate account for each resident's money and as applicable, shall comply with the provisions under s. 51.61 (1) (v), Stats.

(b) The center shall, as applicable, have in place a restitution plan for a resident and as applicable, that is coordinated with any other restitution ordered by a court or as part of an agreement under ch. 938, Stats., that describes procedures for deducting sums from a resident's account or earnings as restitution for damages done by the resident. Deductions made for restitution shall be in accordance with a restitution plan as follows:

1. Before a center may withhold a part of a resident's earnings or account balance, a restitution plan shall be made a part of the resident's treatment record.

2. The restitution plan shall take into consideration the resident's ability to pay or be as prescribed under court order.

**History:** Cr. Register, February, 2000, No. 530, eff. 9-1-00; correction in (1) (b) 7, made under s. 13.93 (2m) (b) 7., Stats., Register, June, 2001, No. 546; corrections in (1) (a) 8., 10., (b) 2., 4., (c) 3., 9., 11., 12., (3) (a), (c) and (7) (b) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635; EmR1106: emerg. r. and recr. (3), eff. 9-16-11; CR 11-026: am. (1) (a) 10., r. and recr. (3) Register December 2011 No. 672, eff. 1-1-12; EmR1414: emerg. am. (1) (a) 3., eff. 8-1-14; CR 14-054: am. (1) (a) 3. Register April 2015 No. 712, eff. 5-1-15; EmR1633: emerg. am. (1) (intro.), cr. (1) (d), (1m), eff. 11-18-16; CR 16-051: am. (1) (intro.), cr. (1) (d), (1m) Register July 2017 No. 739, eff. 8-1-17.

**DCF 52.415 Promoting normalcy.** (1) SIMILAR TO PEERS. A residential care center shall promote normalcy and the healthy development of a resident by supporting the resident's right to participate in extracurricular, enrichment, cultural, and

social activities and have experiences that are similar to peers of the same age, maturity, or development.

(2) RPPS DECISION MAKER. (a) A residential care center shall ensure the presence on-site of at least one RPPS decision maker at all times to make decisions regarding the participation of a resident in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities.

(b) An RPPS decision maker may be a licensee, authorized representative of the licensee, or any staff person specified in s. DCF 52.12 (1) (a) 1. to 5.

(c) An RPPS decision maker shall have knowledge of a resident and access to the resident's treatment plan and other resident case records under s. DCF 52.49 related to the decision-making factors in sub. (4).

(d) An RPPS decision maker shall document in the communication log under s. DCF 52.41 (1m) decisions made under this section for activities that do not take place in the residential care center and are not supervised by a staff person.

(e) An RPPS decision maker shall document on a form prescribed by the department any decision made under this section that requires written permission from the center in lieu of the resident's parent or guardian. The completed form shall be placed in the resident's case record under s. DCF 52.49 (2) (b).

**Note:** DCF-F-5124-E, *Reasonable and Prudent Parent Decision Record*, is available in the forms section of the department website at <http://dcf.wisconsin.gov> or by writing the Division of Safety and Permanence, P.O. Box 8916, Madison, WI 53708-8916.

(3) REASONABLE AND PRUDENT PARENT STANDARD. When an RPPS decision maker is making a decision regarding a resident's participation in activities, the RPPS decision maker shall use a decision-making standard that is characterized by careful and sensible parental decisions that maintain the health, safety, best interests, and cultural, religious, and tribal values of the resident while at the same time encouraging the emotional and developmental growth of the resident, if the activities meet the conditions in pars. (a) and (b) as follows:

(a) *Areas covered by the standard.* The resident is participating or wants to participate in extracurricular, enrichment, cultural, or social activities, including all of the following.

1. Activities related to transportation, such as obtaining a driver's license, driving, or carpooling with peers and other adults.

2. Formal or informal employment and related activities, such as opening an account in a bank or credit union.

3. Activities related to peer relationships, such as visiting with friends, staying overnight at a friend's house, or dating.

4. Activities related to personal expression, such as haircuts; hair dyeing; clothing choices; or sources of entertainment, including games and music.

(b) *Age or developmentally appropriate activities.* The resident is participating or wants to participate in activities that are suitable based on any of the following criteria:

1. Activities that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child based on the cognitive, emotional, physical, and behavioral capacities that are typical for children of the same age or age group.

2. Activities that are suitable based on this resident's cognitive, emotional, physical, and behavioral capacities.

**Note:** The reasonable and prudent parent standard does not apply to a child receiving respite care services.

(4) DECISION-MAKING FACTORS. When applying the reasonable and prudent parent standard to a decision regarding a resident's participation in an extracurricular, enrichment, cultural, or social activity, an RPPS decision maker shall consider all of the following:

(a) Child-specific factors, including all of the following:

1. The resident's treatment plan.

2. The resident's wishes, as gathered by engaging the resident in an age-appropriate discussion about participation in the activity.

3. The age, maturity, and development of the resident.

4. Whether participating in the activity is in the best interest of the resident.

5. The resident's behavioral history.

6. Court orders and other legal considerations affecting the resident, including the prohibitions in sub. (5).

7. Cultural, religious, and tribal values of the resident and the resident's family. If the resident and the resident's family have different cultural, religious, or tribal values, then the placing agency, or the department if the department is the resident's guardian, is ultimately responsible for decisions concerning the resident's care.

(b) Activity-specific factors, including all of the following:

1. Potential risk factors of the situation, including whether the resident has the necessary training and safety equipment to safely participate in the activity under consideration.

2. How the activity will help the resident grow.

3. Whether participating in the activity will provide experiences that are similar to the experiences of other residents of the same age, maturity, or development.

4. Other information regarding the parent's or guardian's wishes and values, as obtained during the development and review of the resident's treatment plan under s. DCF 52.22 (1) and (3) and other discussions with the resident's parent or guardian.

(c) Any other concerns regarding the safety of the resident, other residents in the residential care center, or the community.

(d) Information on the forms required under ch. DCF 37.

**Note:** The forms required under ch. DCF 37 are DCF-F-872A-E, *Information for Out-of-Home Care Providers, Part A* and DCF-F-872B-E, *Information for Out-of-Home Care Providers, Part B*. Both forms are available in the forms section of the department website at <http://dcf.wisconsin.gov> or by writing the Division of Safety and Permanence, P.O. Box 8916, Madison, WI 53708-8916.

**(5) PROHIBITIONS.** An RPPS decision maker may not do any of the following:

(a) Permit a resident to participate in an activity that would violate a court order or any federal or state statute, rule, or regulation.

(b) Make a decision that conflicts with the resident's permanent plan or family interaction plan.

(c) Consent to the resident's marriage.

(d) Authorize the resident's enlistment in the U.S. armed forces.

(e) Authorize medical, psychiatric, or surgical treatment for the resident beyond the terms of the consent for medical services authorized by the resident's parent or guardian.

(f) Represent the resident in a legal action or make a decision of substantial legal significance.

(g) Determine which school the resident attends or make a decision for the resident regarding an educational right or requirement that is provided in federal or state law.

**Note:** For example, only a parent or guardian can make decisions about a resident's individualized educational program under s. 115.787, Stats.

(h) Require or prohibit a resident's participation in an age or developmentally appropriate activity solely for convenience or a personal reason not applicable to the decision-making factors in sub. (4).

**History:** EmR1633: emerg. cr., eff. 11-18-16; CR 16-051: cr. Register July 2017 No. 739, eff. 8-1-17.

## DCF 52.42 Behavior management and control.

**(1) DEFINITIONS.** In this section:

(a) "Behavior management and control" means techniques, measures, interventions and procedures applied in a systematic fashion to prevent or interrupt a resident's behavior which threatens harm to the resident or others or to property and which pro-

mote positive behavioral or functional change fostering resident self-control.

(b) "Informed consent document" means a document signed by a resident's parent or guardian and legal custodian or under a court order or under another lawful authority which gives written informed consent for use of a locked unit for a resident based on the following:

1. Stated reasons why the intervention is necessary and why less restrictive alternatives are ineffective or inappropriate.

2. The behaviors needing modification.

3. The behavior outcomes desired.

4. The amount of time in each day and length of time in days or months the resident is expected to remain in the locked unit.

5. The time period for which the informed consent is effective.

6. The right to withdraw informed consent at any time verbally or in writing and possible consequences for the center and resident if consent is withdrawn.

(c) "Locked unit" means a ward or wing designated as a protective environment in which treatment and services are provided and which is secured by means of a key lock in a manner that prevents residents from leaving the unit at will. A facility locked for purposes of external security is not a locked unit provided that residents may exit at will.

(d) "Emergency safety intervention" means that a staff member physically intervenes with a resident when the resident's behavior presents an imminent danger of harm to self or others and physical restraint or physically enforced separation is necessary to contain the risk and keep the resident and others safe.

(e) "Physically enforced separation" means that a resident is temporarily physically removed to a time-out room or area including, where applicable, a locked unit. "Physically enforced separation" does not include sending a resident on the resident's own volition to the resident's room or another area for a cooling off period as part of a de-escalation technique.

(f) "Physical hold restraint" means that a resident is temporarily physically restrained by a staff member.

(g) "Time-out room" means a designated room used for temporarily holding a resident who is in physically enforced separation from other residents.

**(2) MONITOR AND REVIEW RESPONSIBILITY.** (a) A center shall assign to a professional staff member the responsibility to monitor and review, on an ongoing basis, the use of all center behavior management measures identified under par. (b) for appropriateness and consistency.

(b) Monitoring and review shall cover violation of house rules and their resulting consequences, the use of physical hold restraint and physically enforced separation in emergency safety intervention, the use of a locked unit when used to facilitate a resident's treatment plan under sub. (7) (a) 3., and all related center policies and procedures.

**(3) CONDUCT OF RESIDENTS.** A center shall have written policies and procedures covering the conduct expected of residents. The policies and procedures shall do all of the following:

(a) Promote the growth, development and independence of residents.

(b) Address the extent to which a resident's choice will be accommodated in daily decision making. There shall be an emphasis on self-determination and self-management.

(c) Specify center behavior management techniques and approaches available to change, eliminate or modify the behaviors or conditions identified in the center's program statement and operating plan required under s. DCF 52.41 (1).

(d) Specify criteria for levels of supervision of activities, including off-grounds activities. These criteria shall be directed

at protecting the safety and security of residents, center staff, visitors and the community.

(e) Provide for making a record of a resident's off-grounds activities. The record shall include where the resident will be, duration of the visit, the name, address and phone number of the person responsible for the resident and expected time of the resident's return.

(f) Specify house rules for the residents. The house rules shall include all of the following:

1. A general description of acceptable and unacceptable conduct.
2. Curfew requirements.
3. A resident's individual freedoms when the resident is involved in recreational or school activities away from the center.
4. Consequences for a resident who violates a house rule.

**Note:** There is a difference between a patient right and a privilege. Deprivation of a privilege such as watching television, playing video games, going to the movies or involvement in some other recreational activity may be used as a disciplinary measure.

(g) Provide for distribution of the house rules to all staff and to all residents and their parents or guardians.

**(4) PROHIBITED MEASURES.** Center staff may not employ any cruel or humiliating measure such as any of the following:

- (a) Physically hitting or harming a resident.
- (b) Requiring physical exercise such as running laps or doing push-ups or other activities causing physical discomfort such as squatting or bending, or requiring a resident to repeat physical movements or assigning the resident unduly strenuous physical work.
- (c) Verbally abusing, ridiculing or humiliating a resident.
- (d) Denying shelter, clothing, bedding, a meal, or a menu item, center program services, emotional support, sleep or entry to the center.
- (e) Use of a chemical or physical restraint or physically enforced separation or a time-out room as punishment.
- (f) Authorizing or directing another resident to employ behavior management techniques on a resident.
- (g) Penalizing a group for an identified group member's misbehavior.

**(5) EMERGENCY SAFETY INTERVENTION.** (a) A center staff member may not use any type of physical restraint or physically enforced separation on a resident unless the resident's behavior presents an imminent danger of harm to self or others and physical restraint is necessary to contain the risk and keep the resident and others safe.

(ae) A center staff member shall attempt other feasible alternatives to de-escalate a child and situation before using physical restraint or physically enforced separation.

(am) A center staff member may not use physical restraint or physically enforced separation as disciplinary action, for the convenience of center staff, or for therapeutic purposes.

(as) If physical restraint is necessary under par. (a), a center staff member may only use the physical restraint in the following manner:

1. With the least amount of force necessary and in the least restrictive manner to manage the imminent danger of harm to self or others.
2. That lasts only for the duration of time that there is an imminent danger of harm to self or others.
3. That does not include any of the following:
  - a. Any maneuver or technique that does not give adequate attention and care to protection of the resident's head.
  - b. Any maneuver that places pressure or weight on the resident's chest, lungs, sternum, diaphragm, back, or abdomen causing chest compression.

c. Any maneuver that places pressure, weight, or leverage on the neck or throat, on any artery, or on the back of the resident's head or neck, or that otherwise obstructs or restricts the circulation of blood or obstructs an airway, such as straddling or sitting on the resident's torso.

d. Any type of choke hold.

e. Any technique that uses pain inducement to obtain compliance or control, including punching, hitting, hyperextension of joints, or extended use of pressure points for pain compliance.

f. Any technique that involves pushing on or into a resident's mouth, nose, or eyes, or covering the resident's face or body with anything, including soft objects, such as pillows, washcloths, blankets, and bedding.

4. Notwithstanding subd. 3. f., if a resident is biting himself or herself or other persons, a center staff member may use a finger in a vibrating motion to stimulate the resident's upper lip and cause the resident's mouth to open and may lean into the bite with the least amount of force necessary to open the resident's jaw.

(b) Use of physically enforced separation shall meet the following additional conditions:

1. The staff member using physically enforced separation of a resident shall review need for continued use every 10 minutes while the resident is in physically enforced separation and shall log the time of each review and the emotional status of the resident.

2. Except as otherwise provided for a locked unit under sub. (7) (a) 2. b., initial use of physically enforced separation may not extend for more than one hour without authorization from the center director or a professional staff person designated by the center director.

3. Except as otherwise provided for a locked unit under sub. (7) (a) 2. b., if a resident is authorized under subd. 2. to be in physically enforced separation for more than one hour and the physically enforced separation lasts for more than 2 hours, or if the resident experiences multiple episodes in a day which prompt use of physically enforced separation for a cumulative period of more than 2 hours during the day, center staff shall consider the need to arrange another more appropriate placement for the resident.

4. Physical hold restraint on a resident shall not be used to circumvent the requirement of the one hour limit for using a time-out room or a locked unit.

5. A resident may be kept in physically enforced separation only by means of one of the following:

- a. A time-out room where the door is latched by positive pressure applied by a staff member's hand without which the latch would spring back allowing the door to open of its own accord.
- b. A time-out room where the staff member holds the door to the time-out room shut.
- c. A time-out room where the staff member is in a position in the doorway to prevent the resident's leaving.
- d. A staff member is in a position to prevent a resident from leaving a designated area.

e. A time-out room which does not use a key lock, pad lock or other lock of similar design and has a type of lock such as a dead bolt lock, magnetic door lock or lock which only requires the turn of a knob to unlock the door, where a staff member is located next to the time-out room door and has the means to unlock the door immediately, if necessary, and that otherwise meets the requirements of this section and chs. SPS 361 to 366, the Wisconsin Commercial Building Code.

f. In a locked unit that otherwise meets the requirements of this section and the provisions for use of locked units for emergency safety intervention under sub. (7) (a) 2.

6. A resident placed in a time-out room shall be under supervision and shall be free from materials in the room which could represent a hazard to the resident or to others. A time-out room may hold only one resident at a time.

7. A time-out room shall have adequate ventilation and, if there is a door, a shatter-proof observation window on or adjacent to the door. The window's location shall allow for observation of all parts of the room. The room's location shall be within hearing or call to a living area or other area of activity. The time-out room shall have at least 48 square feet of floor space with a ceiling height of not less than 8 feet and a width of at least 6 feet. A time-out room may not include a box or other compartment that represents a stand alone unit within the facility. The time-out room shall be an architectural or permanent part of the building structure.

8. Physically enforced separation in a time-out room may not be used as a substitute for supervision of a resident who is at risk of running away.

**(6) EMERGENCY SAFETY INTERVENTION INCIDENT REPORTS.** (a) For each incident where physical hold restraint or physically enforced separation of a resident was necessary, the staff person on duty shall document in an incident report the following:

1. The resident's name, age and sex.
2. A description of the incident.
3. The date, time, and location of the incident and methods used to address the resident's behavior, including duration of each emergency safety intervention episode.
4. Results achieved from methods used to address resident behavior.
5. The name of each staff member involved in using the technique or approach with the resident at the time of the incident or when the incident was discovered.
6. Injuries received by either the resident or a staff member in using physically enforced separation or physical hold restraint, how the injuries happened and any medical care provided.

(b) In each building housing residents, center staff shall maintain a log of written reports of incidents involving residents. The report of an incident shall include at least the information under par. (a) 1. to 3.

(c) Resident care staff at the beginning of each shift shall be informed of or review incident reports occurring since their last shift. A copy of each incident report concerning a resident shall be placed in the resident's treatment record.

**(7) USE OF LOCKED UNITS.** (a) *Conditions for use.* No resident may be placed in a locked unit unless the center has first obtained department approval to operate a locked unit, the locked unit meets the requirements of this subsection and one of the following applies:

1. Use of a locked unit is ordered by a physician, to protect the health of the resident or other residents.
2. Use of a locked unit is for purposes of ensuring physically enforced separation when intervening in an emergency safety situation involving the resident. Use of a locked unit to deal with an emergency safety situation may take place provided that the following conditions are met:
  - a. Use is as a emergency safety intervention physically enforced separation under sub. (5).
  - b. Use of a locked unit for emergency safety intervention physically enforced separation may not extend beyond one hour except with written authorization from a physician, a psychologist licensed under ch. 455, Stats., or an independent clinical social worker certified under s. 457.08 (4), Stats. After review of the resident's condition, new written orders, where necessary, may be issued for up to 24 hours. The resident shall be released from the physically enforced separation as quickly as possible. In this subdivision paragraph, "as quickly as possible" means as soon as the resident is calm and no longer a danger to self or others.
  - c. Use is followed by a review of the need for development of goals and objectives in the resident's treatment plan to govern the use of locked unit physically enforced separation or to minimize or eliminate its need.

3. Use of a locked unit is part of a behavior management and control program described in the resident's treatment plan provided that the following conditions are met:

- a. The resident exhibits or recently has exhibited severely aggressive or destructive behaviors that place the resident or others in real or imminent danger and the lack of the locked unit prevents treatment staff from being able to treat the resident.
- b. A physician, a psychologist licensed under ch. 455, Stats., or an independent clinical social worker certified under s. 457.08 (4), Stats., who is knowledgeable about contemporary use of locked unit treatment intervention gives written approval included in the resident's treatment record for its use.
- c. The goals, objectives and approaches in the resident's treatment plan support its use. Goals and objectives shall be directed at reducing or eliminating the need for use of a locked unit.
- d. The parent or guardian and legal custodian of the resident if a minor, gives informed consent in writing to the use of a locked unit or the locked unit intervention is ordered by a court or other lawful authority.
- e. The resident has no known medical or mental health condition which would place the resident at risk of harm from being placed in a locked unit as evidenced by a statement from a physician.

(b) *Record.* The center shall maintain a written record of the following information on locked unit use under par. (a) 3, in the resident's treatment record:

1. The name and age of the resident.
2. The date or dates the resident is in a locked unit and the length of time each day.
3. At least weekly assessment for continued need for locked unit use.

(c) *Supervision.* Appropriately trained staff shall directly supervise use of a locked unit. Appropriately trained staff are staff who have received the training under s. DCF 52.12 (5) (b) 4. and (c).

(d) *Center locked unit policies and procedures.* A center with a locked unit shall have written policies and procedures that include all of the following:

1. Except as provided in this subsection, no resident may be housed in a locked unit.
2. A resident may be in a locked unit only if there is a written informed consent document signed by the resident's parent or guardian and legal custodian or by an order of a court or other lawful authority or as provided under subd. 5. A copy of the informed consent document, court order or document from another lawful authority shall be filed in the resident's treatment record.
3. Parent or guardian and legal custodian written informed consent to placement of a resident in a locked unit shall be effective for no more than 45 days from the date of the consent and may be withdrawn sooner unless otherwise specified in a court order or by another lawful authority. Parent or guardian and legal custodian written informed consent for continued use of a locked unit may be renewed for 30 day periods except as otherwise specified in a court order or by another lawful authority. Each renewal of informed consent shall be through a separate written informed consent document.
4. Except as otherwise specified in a court order or by another lawful authority, the parent or guardian or the legal custodian may withdraw his or her written informed consent to the resident being placed in a locked unit at any time, orally or in writing. The resident shall be transferred to an unlocked unit promptly following withdrawal of informed consent.
5. In an emergency such as when a resident runs away, is being held for movement to secure detention until police arrive or has attempted suicide, the resident may be placed in a locked unit without parent or guardian or legal custodian consent. The parent or guardian and legal custodian shall be notified as soon as possi-

ble and written authorization for continued use of the locked unit shall be obtained from the parent or guardian and legal custodian within 24 hours. No resident kept in a locked unit under this subdivision may be kept in the locked unit for more than an additional 72 hours unless a written informed consent document signed by the parent or guardian and legal custodian authorizing continued locked unit use is obtained.

6. Prior to use of a locked unit, written approval to lock exit access doors of the unit is obtained from the Wisconsin department of safety and professional services.

7. All staff members supervising residents in a locked unit shall have the means to unlock the unit immediately if this is necessary.

8. A locked unit shall be free of furnishings that could be used by a resident in a harmful way and shall have adequate ventilation.

9. A center shall provide in each locked unit one resident care worker with no assigned responsibilities other than direct supervision of the residents. During hours when residents are awake there shall be one resident care worker for every 4 residents and one resident care worker for every 6 residents during sleeping hours. Staff shall be present in the locked unit with residents and shall have the means to immediately summon additional staff.

**(8) BEHAVIOR MODIFICATION AND CONTROL MEASURES.** (a) A center may not use intrusive and restrictive behavior management techniques such as behavior-modifying drugs or other forms of physical restraint as defined under s. 48.599 (1r), Stats., not identified in this section unless the center receives approval for their use from the department and where applicable, procedures in accordance with provisions found in this chapter are followed.

(b) Use of locked rooms for physically enforced separation of residents other than as provided under sub. (5) for emergency safety intervention is prohibited.

(c) A center may not use on a resident any aversive measure that is painful or discomfiting to a resident or any measures that are dangerous or potentially injurious to a resident.

**(9) ABSENCE OF RESIDENTS WITHOUT PERMISSION.** A center shall have written policies and procedures for notifying the appropriate local law enforcement agency that a resident has left the center without permission or fails to return to the center after an approved leave. The procedures shall specify all of the following:

(a) How the determination is made that a resident is missing.

(b) The name of the local law enforcement agency and the name of the agency, if different, that is to be notified in order for it to file a missing person report with the crime information bureau of the Wisconsin department of justice.

(c) The name of the staff member who will promptly notify the law enforcement agency identified under par. (b) of the resident's absence, as well as the resident's parent or guardian and legal custodian, if any, and the placing person or agency, if not the same.

(d) Notification of the department's interstate compact office at least within 48 hours of an out-of-state resident's absence.

**Note:** For notification of Wisconsin's Interstate Compact Office, phone: (608) 267-2079.

**History:** Cr. Register, February, 2000, No. 530, eff. 9-1-00; CR 04-040: am. (5) (b) 5. e. and (7) (d) 6. Register December 2004 No. 588, eff. 1-1-05; corrections in (3) (c) and (7) (c) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635; EmR1106: emerg. r. and recr. (1) (d), (5) (a), cr. (5) (ae), (am), (as), (b) 8., eff. 9-16-11; CR 11-026: r. and recr. (1) (d), (5) (a), am. (2) (b), (5) (b) 5. f., (6) (title), (a) 3., (7) (a) 2. (intro.), a., b., (8) (b), cr. (5) (ae), (am), (as), (b) 8., r. (5) (b) (title) Register December 2011 No. 672, eff. 1-1-12; correction in (5) (b) 5. e., (7) (d) 6. made under s. 13.92 (4) (b) 6., 7., Stats., Register December 2011 No. 672, eff. 1-1-12; correction in (8) made under s. 13.92 (4) (b) 7., Stats., Register October 2015 No. 718.

**DCF 52.43 Education. (1) CLASSROOM SPACE.** On-grounds school programs shall have classroom space that is in compliance with the requirements of chs. SPS 361 to 366, the Wisconsin Commercial Building Code and applicable local ordinances.

**(2) STUDY SPACE.** A center shall provide residents with appropriate space and supervision for quiet study after school hours.

**(3) ACCESS TO EDUCATIONAL RESOURCES.** A center shall provide or arrange for resident access to up-to-date reference materials and other educational resources. These educational materials and resources shall meet the educational needs of residents.

**(4) OUT-OF-STATE RESIDENTS.** A center admitting persons through Wisconsin's interstate compact on placement of children from other states shall have on file educational history and achievement reports for those admissions. A center serving out-of-state residents with exceptional educational needs shall in addition comply with s. 48.60 (4), Stats., on payment of educational charges.

**(5) EDUCATIONAL RECORD.** A center shall maintain a separate educational record for each resident as part of the resident's case record. The educational record shall include the results of educational assessments, educational goals and progress reports.

**Note:** See s. DCF 52.41 (1) (b) for educational program service requirements described in a center's operating plan.

**History:** Cr. Register, February, 2000, No. 530, eff. 9-1-00; CR 04-040: am. (1) Register December 2004 No. 588, eff. 1-1-05; correction in (1) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672, eff. 1-1-12.

**DCF 52.44 Nutrition. (1) MEALS AND SNACKS.** (a) A center shall provide or arrange for each resident to receive at least 3 meals each day. Meals shall be served at regular times comparable to normal mealtimes in the community.

(b) Food served at a meal shall consist of adequate portions based on the ages of residents. Lunch and breakfast meals shall follow the meal pattern requirements for the national school lunch program as provided by the U.S. department of agriculture and included in Appendix C of this chapter. Dinner meals shall be comparable to the lunch meal pattern requirements.

(c) Nutritious snacks shall be provided between meals to residents at the center as follows:

1. For residents between breakfast and lunch if there are more than 4 hours between those meals, and between lunch and dinner.

2. For all residents, an evening snack.

3. When a resident's nutritional care plan under sub. (2) (c) indicates a need for snacks.

**(2) RESIDENTS WITH SPECIAL DIETARY NEEDS.** A center shall maintain an up-to-date list of residents with special nutritional or dietary needs as determined by a physician or dietitian, and shall do all of the following:

(a) Provide food supplements or modified diets as ordered by a physician for a resident who has special dietary needs.

(b) Have procedures for recording diet orders and changes and for sending diet orders and changes to kitchen personnel.

(c) Include a nutritional care plan in the health record of a resident with special nutritional or dietary needs. The plan shall include a problem statement, nutritional goals or dietary goals, a plan of action and procedures for follow-up. The nutritional care plan shall be reviewed and approved by a registered dietitian.

(d) Provide adaptive self-help devices to residents as needed and instruct residents on their use.

(e) Observe resident food and fluid intake. Review acceptance by a resident of a diet, and report any significant deviations from a resident's normal eating pattern to the resident's physician.

(f) Assist residents with food and fluid intake as necessary according to the nutritional care plan, including where applicable such tasks as instructing a resident on how to eat and take fluids as independently as possible and protecting a resident from choking which may occur because of a physiological or behavioral eating disorder.

**Note:** An example of a food that has been fatal is peanut butter sandwiches for a Down Syndrome individual with uncontrollable eating habits.

(g) Provide vitamin and mineral supplements when ordered by a physician.

**(3) MENUS.** A center shall do all of the following:

(a) Plan meals and snacks in advance of the date of service and prepare menus in writing that specify the actual food to be served.

(b) Post the menu for the day and next day in the food serving area or in another place where residents can read it.

(c) Keep menus on file for the last 30 days of service.

(d) When it is necessary to substitute another item for an item on a posted menu, ensure that the replacement item has the same nutritional value as the item replaced. The center shall provide for menu substitutes where religious beliefs prohibit consumption of certain food items such as pork for Jewish or Muslim residents or meat products on Lenten Fridays or other designated days of fast for Catholic residents.

**(4) FOOD SERVICE PERSONNEL.** (a) In this subsection, "food service personnel" means staff who prepare breakfast, lunch, dinner and snacks for center residents.

(b) If a center has its own food service personnel, the food service personnel shall be age 18 or over and meet the requirements of s. DHS 190.09 (1).

(c) The director of a center shall appoint a food service director who shall be responsible for complying with this section and ch. DHS 190 as it relates to food service.

(d) A center shall provide all center food service personnel in-service training annually. Training topics shall relate to proper food handling procedures, maintenance of sanitary conditions and food service arrangements. Training shall be documented and the documentation kept on file at the center.

**(5) FOOD SERVICE.** (a) A center shall meet the requirements of s. DHS 190.09 (2) to (9).

(b) A center shall provide nutritious packed lunches for residents who are in school or vocational or work programs when on-site lunches are not available. The center shall make provision for holding a meal for a resident who returns to the center after a meal is served.

(c) No resident may be force-fed or otherwise coerced to eat against the resident's will except by order of a physician.

(d) A staff person trained in the Heimlich maneuver for choking victims shall be present at mealtimes.

(e) Residents shall have at least 30 minutes to finish a meal, and a resident with an eating disorder shall have as much time as is necessary to finish the meal.

(f) The dining room in a center shall be clean, well-lighted and ventilated and shall offer a comfortable atmosphere for dining.

(g) A center may not use disposable dinnerware at meals on a regular basis, except when it documents that use of disposable dinnerware for a particular resident is necessary to protect the health or safety of the resident or others.

**History:** Cr. Register, February, 2000, No. 530, eff. 9-1-00; corrections in (4) (b), (c) and (5) (a) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635.

**DCF 52.45 Health. (1) ONGOING CARE.** (a) A center shall arrange a physical examination comparable to a comprehensive HealthCheck screening for each resident at intervals recommended by the medical assistance program for HealthCheck screening, except if a resident is privately insured. A privately insured resident shall be reexamined no less frequently than as required by HealthCheck or in accordance with policy coverage. The physical examination shall be conducted by a HealthCheck provider or by a physician and shall document areas found on department HealthCheck age-appropriate forms.

**Note:** A HealthCheck form may be obtained from any local public health agency, from the Department of Health Services website at <http://dhs.wisconsin.gov/forms/FtoM.asp> or by writing or telephoning any field office listed in Appendix D.

(b) A center shall arrange a thorough dental examination for each resident at intervals recommended by the medical assistance program for HealthCheck screening, except if a resident is privately insured. A privately insured resident shall be reexamined

no less frequently than as required by Healthcheck or in accordance with policy coverage. The dental examination shall be conducted by a licensed dentist.

(c) A center shall arrange and provide for necessary remedial and corrective measures for every resident as soon as possible after a physical or dental examination which indicates need for remedial or corrective measures.

(d) A center shall have in each building housing residents when residents are present, at least one staff member certified by the American Red Cross to administer first aid and certified by the American Red Cross or American heart association to administer cardiopulmonary resuscitation (CPR). The center shall keep all staff certifications current and shall maintain documentation of all certifications.

(e) There shall be a first aid kit on every floor level of every center building housing residents, in buildings where resident activities take place and in every vehicle used to transport residents. The first aid kit shall be placed where it is inaccessible to residents but accessible to staff. Contents of first aid kits shall meet recommendations of the American Red Cross. A first aid kit shall be inventoried and resupplied after each use.

(f) A center shall separate an ill resident from other residents only if necessary because of the severity of the illness and if it is contagious or infectious, or when requested by the ill resident.

**(2) BASIC SANITATION AND HYGIENE PRACTICES.** Center staff shall follow the guidelines in appendix A to prevent transmission of infection from all blood or other body fluid exposures.

**(3) PREGNANT RESIDENTS OR RESIDENT MOTHERS.** (a) If a center serves pregnant residents or residents who are mothers who keep their babies at the center, the center shall do all of the following:

1. Refer those residents for enrollment to the women, infants and children (WIC) supplemental food and nutrition counseling program.

2. Ensure that pregnant residents receive prenatal health care.

3. Ensure that resident mothers and their infant or toddler children receive health care through a HealthCheck provider or, if through private insurance, a physician, according to the frequency recommended under medical assistance program HealthCheck guidelines or as described by the private insurance policy.

(b) A center which serves residents who are mothers with infants or toddlers shall comply with s. DCF 250.07, family day care standards for infant and toddler care. The center shall provide an additional 35 square feet of resident living space for each infant and toddler in addition to the resident living space required under s. DCF 52.52 (1).

**(4) HEALTH CARE RECORD.** A center shall maintain a separate health care record as part of each resident's case record. The health care record shall include all of the following:

(a) The signed written consent required under s. DCF 52.21 (5).

(b) The dates and results of all physical health, mental health and dental examinations.

(c) The resident's health history and, if applicable, medications history prior to admission and during the resident's stay at the center.

(d) Information about any of the following medical procedures received while the young person was a resident of the center, including dates, person administering and results:

1. Immunizations.

2. Laboratory tests.

3. Routine health care examinations and treatment.

4. Emergency health care examinations and treatment.

5. Dental examinations and treatment.

(e) The medications administration record required under s. DCF 52.46 (4).

(f) If applicable, the nutritional care plan required under s. DCF 52.44 (2) (c).

**History:** Cr. Register, February, 2000, No. 530, eff. 9-1-00; corrections in (3) (b), (4) (a), (e) and (f) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635.

**DCF 52.46 Medications. (1) DEFINITIONS.** In this section:

(a) "General supervision" means regular coordination, direction and inspection of the exercise of delegation of medication administration by a physician or registered nurse of someone who is not licensed to administer medications.

(b) "Staff administration" means proper administration of medication to a resident by center nonmedically nonlicensed staff under a valid medical order from a medically licensed practitioner who specifically designates, trains and supervises center staff administration of medications.

(c) "Staff monitoring of self-administration" means handing the medication to the resident by center staff according to physician and medication label instructions and observing and ensuring the proper ingestion, injection, application or inhalation of the medication by the resident.

**(2) MEDICATIONS ADMINISTRATION.** Each staff person responsible for administering or monitoring resident use of medications shall receive a copy of the center policies and procedures required under s. DCF 52.41 (1) (c) 9. for medication administration and monitoring and shall be knowledgeable of them. The policies and procedures shall include:

(a) For all medications, all of the following:

1. Having written informed consent on file as required under s. DCF 52.21 (5).

2. Having information in each resident's health record about any health allergies or health-related restrictions.

3. Having on file written authorization from a physician or registered nurse for each staff person permitted to administer medications or to monitor self-administration of medications.

4. Instructions for center staff concerning administration of medications and monitoring of resident self-administration of medications, secure storage of medications and recording medication administration information as required under sub. (4) (a) in the resident's health record.

5. Immediate notification of the resident's attending physician in the event of a medication error or adverse drug reaction.

6. Medications may only be made available when an individual authorized by the center is present.

(b) For prescription medications, all of the following:

1. Requiring that a medication be administered by center staff to a resident only when:

a. The resident's attending physician or center medical consultant provides center staff with clear written instructions for administering the medication and authorizes specific center staff to administer the medication.

b. The administration takes place under the general supervision of a physician or registered nurse.

c. The label on the medication container gives clear instruction for administration of the medication and, if not clear, center staff contact the physician or pharmacy for clarification before administration of the medication.

2. Allowing a medication, including a self-injectable medication, to be self-administered by a resident only while the resident is under direct supervision of center staff and if self-administration is authorized in writing from the prescribing physician or center medical consultant under s. DCF 52.41 (1) (c) 4., and that authorization is confirmed by review of the authorization for self-administration by center staff before allowing self-administration by a resident.

3. Providing information to a resident and the resident's resident care workers and resident services case manager about any medication prescribed for the resident and when a physician orders or changes the resident's medication. Information provided shall include expected benefits and potential adverse side effects which may affect the resident's overall treatment and, for staff, what to do if the resident refuses medication.

4. Instructions for center staff on what to look for in monitoring physical or mental changes to a resident that may occur from a medication, what to do if physical or mental changes are observed and recording them in the resident's health record.

5. Arranging a second medical consultation when a resident or the resident's parent or guardian or legal custodian, if any, has concerns about any medication received by the resident or the resident's medication plan.

6. Having the resident's physician or center medical consultant review a resident's prescription medications when there are noted adverse effects from the medication. Documentation showing the date of review and reviewer's name shall appear in the resident's health record.

7. Ensuring that any use-as-needed medication is based on an assessment by a physician or registered nurse and is approved by either a physician or registered nurse.

8. Arranging for administration of prescribed medications to a resident when the resident is away from the center, for example, at school or on a home visit. A resident may not be given access to medications if there is a possibility that the resident may harm self through abuse or overdose.

**(3) MEDICATIONS STORAGE.** (a) A center shall comply with all the following requirements for storage of medications:

1. All medications shall be kept in the original container or, when authorized in writing by a physician, in a dispensing container, and shall:

a. If a prescription medication, be labeled with the expiration date and information required under s. 450.11 (4), Stats.

b. If a non-prescription medication, be labeled with the name of the medication, directions for use, expiration date and the name of the resident taking the medication.

2. Medications shall be kept in locked cabinets or containers and under proper conditions of sanitation, temperature, light, moisture and ventilation to prevent deterioration.

3. Medications used externally and medications taken internally shall be stored on separate shelves or in separate cabinets.

4. Medications stored in a refrigerator containing other items shall be stored in a separate locked compartment.

5. Medications may not be stored with disinfectants or poisons.

(b) A center shall immediately destroy all outdated prescription and over-the-counter medications and all prescription medication no longer in use. The center shall maintain a log of the medication destroyed, who destroyed it and what amount was destroyed.

**(4) MEDICATIONS ADMINISTRATION RECORD.** (a) A center shall have in each resident's health record a written medications administration record which lists each prescribed and over-the-counter medication the resident receives. The record shall contain the following information:

1. For an over-the-counter medication, the resident's name, type of medicine, reason for use, time and day of administration and staff person authorizing its use.

2. For a prescription medication, all of the following:

a. The name of the resident.

b. The generic or commercial name of the medication.

c. The date the medication was prescribed.

d. The name and telephone number of the prescribing physician to call in case of a medical emergency.

- e. The reason the medication was prescribed.
  - f. The dosage.
  - g. The time or times of day for administering the medication.
- Staff shall document all medication administered with the date and time of administration or, if not administered, with the date and time of resident refusal to take it.
- h. The method of administration, such as orally or by injection.
  - i. The name of the center-authorized person who administered or monitored resident self-administration of the medication.
  - j. Any adverse effects observed.
  - k. Any medication administration errors and corrective or other action taken.

(b) The center shall have a copy of a resident's medication administration record readily available for all center authorized personnel responsible for administering medications to the resident.

**(5) PSYCHOTROPIC MEDICATIONS.** (a) *Definition.* In this subsection, "psychotropic medication" means any drug that affects the mind and is used to manage inappropriate resident behavior or psychiatric symptoms, which may include an antipsychotic, an antidepressant, lithium carbonate or a tranquilizer.

**Note:** This definition does not include a drug that can be used to manage inappropriate symptoms when it is prescribed only for a different medical use, such as carbamazepine (Tegretol), which is usually used for control of seizures but may be used to control labile behavior, and propranolol (Inderal), which is usually used to control high blood pressure but may be used to control anxiety states or side effects from anti-psychotic medication.

(b) *Rights of patients.* A center shall comply with the provisions of s. 51.61 (1) (g) and (h), Stats., for all residents who are prescribed psychotropic medications.

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

1. Arrangements have been made for a physician to perform an initial medical work up or conduct a medical screening of the resident for the type of psychotropic medication to be prescribed for the resident. If the prescribing physician is not a board-certified pediatrician or psychiatrist, consultation shall be obtained from a board-certified pediatrician or psychiatrist.

2. The resident, if 14 years of age or older, and the resident's parent or guardian and legal custodian shall have signed written consent forms as required under s. DHS 94.03.

3. The center has obtained from the prescribing physician and filed in the resident's treatment record a written report at least within the first 45 days after the resident has first received a psychotropic medication and at least every 60 days thereafter. The report shall state in detail all of the following:

- a. Reasons for the initial use of the medication.
  - b. Reasons for continuing, discontinuing or changing the medication.
  - c. Any recommended change in treatment goals or program.
  - d. The physician's actual observation of the resident and reaction to staff reports on the resident.
4. The method and procedures for administering or monitoring resident self-administration of a psychotropic medication shall have been approved by either the prescribing physician or a psychiatrist.

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

- 1. Have authorization from a physician.
- 2. Whenever feasible, obtain written informed consent before using the medication from the resident's parent or guardian and legal custodian, if any, and from the resident if 14 years of age or older.

3. Comply with the center's emergency medical procedures under s. DCF 52.41 (1) (c) 10.

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

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

(e) *Revocation of consent or refusal to take.* 1. A resident, if 14 years of age or older, or a resident's parent or guardian or legal custodian, if any, may at any time revoke consent for non-emergency use of psychotropic medications, as provided under s. DHS 94.03.

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

a. Stop administration of the medication in accordance with good medical practice for withdrawal of the specific medication.

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

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

a. Document in the resident's treatment record the resident's reasons for refusal and have 2 staff members who personally witnessed the refusal sign a written statement to that effect.

b. Notify the resident's physician.

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

(f) *Administration standards.* In administering psychotropic medications, a center shall comply with requirements for administration of prescription medications in this section and clinically acceptable standards for good medical practice.

**History:** Cr. Register, February, 2000, No. 530, eff. 9-1-00; corrections in (2) (intro.), (a) 1., (b) 2., (5) (c) 2., (d) 3. and (e) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635; EmR1106: emerg. am. (5) (f), eff. 9-16-11; CR 11-026: am. (5) (f) Register December 2011 No. 672, eff. 1-1-12.

**DCF 52.47 Transportation.** (1) **APPLICABILITY.** This section applies to transportation of residents by any of the following:

- (a) Center-owned or leased vehicles.
- (b) Vehicles driven by volunteers, student interns or center staff.
- (c) Center-contracted transportation.

(2) **SCHOOL BUSES.** A school bus, as defined in s. 340.01 (56), Stats., that is used to transport residents shall be in compliance with ch. Trans 300.

(3) **DRIVER INFORMATION.** (a) When a center provides transportation, the name of each driver, type of license held and the date of expiration of the license shall be on file at the center.

(b) When a center contracts for transportation services, the center shall have on file the name, address and telephone number of the contracting firm and the name and home telephone number of a representative of the firm.

(4) **DRIVER QUALIFICATIONS.** (a) The driver of a center-operated or center-contracted vehicle shall hold a current valid operator's license for the type of vehicle being driven, be at least 18 years of age and have one year of experience as a licensed driver.

(b) A center shall obtain and keep on file before initial service and annually thereafter a copy of each center driver's driving record.

(c) Before a driver may transport residents, the center shall check the driver's driving record for any reckless driving safety violation under s. 346.62, Stats., and for operation of a motor vehicle under the influence of an intoxicant or other drug under s. 346.63, Stats. A driver having a driving record with any of these violations in the last 12 months may not transport residents.

**Note:** For a copy of a driver's driving record, contact the Bureau of Driver Services, Department of Transportation, P.O. Box 7918, Madison, Wisconsin 53707.

**(5) VEHICLE CAPACITY AND SUPERVISION.** (a) A center shall provide one adult supervisor in a vehicle in addition to the driver in either of the following circumstances:

1. When transporting more than 2 residents unable to take independent action and having limited ability to respond to an emergency.

2. When transporting a resident with a recent history of physically aggressive or acting out behavior.

(b) A center vehicle may only carry as many passengers as the vehicle is rated for by the manufacturer.

**(6) VEHICLE.** (a) *Operation.* A vehicle used to transport residents shall meet all of the following conditions:

1. Be in safe operating condition and carry vehicle liability insurance with minimums no less than those provided in s. 121.53 (1), Stats. Once a year for a vehicle 2 years of age or older, the licensee shall place on file evidence of the vehicle's safe operating condition on a form provided by the department.

**Note:** Form number CFS52, Vehicle Safety Inspection, is available in the forms section of the department website at <http://dcf.wisconsin.gov> or by writing or calling any field office listed in Appendix D.

2. Be registered in Wisconsin.

3. Carry emergency information such as local police and ambulance service phone numbers and phone numbers of center personnel to notify in case of accident.

4. Be clean, uncluttered and free of obstructions on the floors, aisles and seats.

5. Be enclosed.

6. Have a Red Cross-approved first aid kit.

(am) *Child safety seats.* No licensee or person acting on behalf of a licensee may transport any resident under the age of 8 years or less than 80 pounds in weight in any private motor vehicle unless the following conditions are met, as required in s. 347.48 (4), Stats.:

1. Each resident who is less than one year old or who weighs less than 20 pounds being transported in a vehicle shall be properly seated and restrained in a rear-facing individual child car safety seat in the back seat of the vehicle.

2. Each resident who is at least one year old but less than 4 years old or who weighs at least 20 pounds but less than 40 pounds shall be properly restrained in a forward-facing individual child car safety seat in the back seat of the vehicle.

3. Each resident who is at least 4 years old but less than 8 years old, who weighs at least 40 pounds but not more than 80 pounds, or who is 4 feet 9 inches tall or less, shall be properly restrained in a shoulder-positioning child booster seat.

(b) *Seat belts.* Each resident who is not required to be in an individual child car safety seat when being transported shall be properly restrained by a seat belt, except as provided in s. 347.48 (2m), Stats., and ch. Trans 315. Seat belts may not be shared.

(c) *Doors locked.* Passenger doors shall be locked at all times when a vehicle transporting residents is moving.

(d) *No smoking.* Smoking is prohibited in vehicles while transporting residents.

**(7) ACCIDENT REPORT.** A center shall submit to the department a copy of the official police report of any accident involving a center vehicle transporting residents, within 5 days after occurrence of the accident.

**History:** Cr. Register, February, 2000, No. 530, eff. 9-1-00; EmR1106: emerg. cr. (6) (am), r. and recr. (6) (b), eff. 9-16-11; CR 11-026: cr. (6) (am), r. and recr. (6) (b) Register December 2011 No. 672, eff. 1-1-12.

**DCF 52.48 Clothing and laundry.** (1) **CLOTHING.** Residents may wear their own clothing. Residents who do not have enough of their own clothing shall have appropriate non-institutional clothing of proper size furnished by the center. Each center shall do all of the following:

(a) Develop a list of clothing required for residents and maintain a resident's wardrobe at or above this level. The list shall be approved by the department.

(b) Furnish each resident with appropriate size clothing, appropriate to the season and comparable to that of children of similar age in the community, and arrange for each resident to participate in the selection and purchase of his or her own clothing to the maximum extent feasible. Each resident's clothing shall be identified as his or her own.

(c) Have shoes fitted to the individual resident and kept in good repair. Shoes that were worn by one resident shall not be given to another resident.

**(2) LAUNDRY.** Each resident shall have access to laundry service at reasonable intervals or to a washer and dryer.

**History:** Cr. Register, February, 2000, No. 530, eff. 9-1-00; EmR1414: emerg. am. (1) (b), eff. 8-1-14; CR 14-054: am. (1) (b) Register April 2015 No. 712, eff. 5-1-15.

**DCF 52.49 Resident records.** (1) **GENERAL REQUIREMENTS.** (a) A center shall provide safeguards against loss or damage of resident records by fire, theft or destruction.

(b) Child-placing agencies and county departments shall have access to the case records of children they place.

(c) Student interns may have access to resident records only under the supervision of center staff and after signing the confidentiality statement under s. DCF 52.12 (7) (d).

(d) When a center closes, the center shall arrange for safe and secure storage of resident case records.

**(2) INDIVIDUAL CASE RECORDS.** (a) A center shall maintain a case record on a resident at the licensed location where the resident resides. A resident's case record is confidential and shall be protected from unauthorized examination pursuant to ss. 48.78 and 938.78, Stats., or, where applicable, s. 51.30 (4), Stats., and ch. DHS 92. The center shall maintain a resident's case record for 7 years after the resident's discharge or until the child reaches age 19, whichever is later.

(b) Each document in a resident's case record shall be legible, dated and signed by the person submitting the document. A resident's case record shall include all of the following:

1. A treatment record which contains all of the following:

a. A history of the resident and resident's family.

b. The pre-admission screening required under s. DCF 52.21 (2).

c. The written needs assessment and treatment plan required under s. DCF 52.22 (2).

d. Treatment progress notes and implementation and review documentation required under s. DCF 52.22 (3).

dm. Reasonable and prudent parenting decision records required under s. DCF 52.415 (2) (e).

e. Progress reports on residents receiving non-center professional services, as required under s. DCF 52.12 (8) (a) 3. and, if applicable, follow-along or support efforts under s. DCF 52.12 (8) (b).

f. The aftercare plan required under s. DCF 52.23 (1) (b).

g. The discharge summary required under s. DCF 52.23 (3).

h. All signed written consents required under s. DHS 94.03, including consent to non-emergency use of psychotropic medications under s. DCF 52.46 (5) (c) 2. and consent for locked unit use under s. DCF 52.42 (7) (a) 3. d.

i. Documentation of denial of resident rights and copies of the resident's grievances and responses to them.

- j. Incident reports under ss. DCF 52.41 (1) (a) 10. and 52.42 (6).
- k. A recent photo of the resident.
- L. Any report of child abuse or neglect under s. DCF 52.12 (9).
- 2. A health record which contains all of the following:
  - a. All health and medications information and documentation required under ss. DCF 52.45 and 52.46.
  - b. Written informed consents for medical services required under s. DCF 52.21 (5).
  - c. Documentation about any special nutritional or dietary needs identified by a physician or dietician, and a copy of the resident's nutritional care plan if required under s. DCF 52.44 (2) (c).
- 3. The educational record required under s. DCF 52.43 (5).
- 4. All of the following information:
  - a. The name, sex, race, religion, birth date and birth place of the resident.
  - b. The name, address and telephone number of the resident's parent or guardian and legal custodian, if any, at the time of admission.
  - c. The date the resident was admitted and the referral source.
  - d. Documentation of current court status if applicable, and current custody and guardianship arrangements. Documentation shall include copies of any court order, placement agreement or other authorization relating to the placement and care of the resident.
  - e. For a resident from another state, interstate compact approval for placement required under s. DCF 52.21 (3) (a).
  - f. Any records of vocational training or employment experiences.
  - g. Records on individual resident accounts under s. DCF 52.41 (8).

**(3) OTHER RECORDS ON RESIDENTS.** (a) A center shall maintain the following additional records relating to residents:

- 1. A register of all residents as required under s. DCF 52.21 (9). The register shall be kept permanently.
- 2. Records under s. DCF 52.11 (9) of all complaints and grievances received and of investigation of complaints and grievances conducted within the licensing period.
- 3. All reports to the department under s. DCF 52.11 (10) concerning the hospitalization or death of a resident.

(b) A center shall maintain the records under par. (a) 2. and 3. at least 5 years after the date of the final entry.

**(4) ELECTRONIC RECORD STORAGE.** A center may store records electronically if it obtains the approval of the department and follows department procedures.

**History:** Cr. Register, February, 2000, No. 530, eff. 9–1–00; corrections in (2) (a), (b) and (3) (a) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635; EmR1633: emerg. cr. (2) (b) 1. dm., eff. 11–18–16; CR 16–051: cr. (2) (b) 1. dm. Register July 2017 No. 739, eff. 8–1–17.

## Subchapter VI — Physical Environment and Safety

**DCF 52.51 Buildings and grounds.** (1) **REQUIRED COMPLIANCE.** (a) *Standards.* All buildings of a residential care center shall comply with the following requirements:

1. The applicable state building code requirements in chs. SPS 361 to 366, the Wisconsin Commercial Building Code and applicable local ordinances.

2. All requirements in this subchapter, regardless of when a facility was built, except as otherwise provided in this subchapter.

(b) *Building inspections.* Before beginning operation as a residential care center, all buildings of the residential care center shall be inspected by the Wisconsin department of safety and professional services by a certified building inspector and as needed.

(c) *Construction approval.* The licensee shall submit for approval to the department and to the department of safety and professional services, division of safety and buildings, plans for any new buildings or for alterations which will affect the structural strength, area dimensions, safety or sanitary conditions of existing buildings. The center shall have in writing the approval of both the department and the department of safety and professional services before letting contracts for construction.

**Note:** Send building plans to the appropriate Building, Grounds and Safety field office of the Department of Safety and Professional Services and to your licensing representative at the appropriate field office listed in Appendix D.

(d) *Exclusive use of space.* Center living or work space designated on approved building plans for use by residents or staff may not be used for other purposes, except with approval of the department's licensing specialist.

(e) *Center grounds.* Center grounds shall be maintained in a clean and orderly condition and shall be free of refuse, debris and hazards.

**(2) HOUSING BLIND AND DISABLED RESIDENTS.** (a) Except as provided under par. (b), buildings housing residents unable to take independent action for self-preservation shall be of fire-resistant construction as defined in chs. SPS 361 to 366, the Wisconsin Commercial Building Code or protected by a complete, automatic fire sprinkler system. Sprinkler systems installed shall have residential sprinkler heads or fast response sprinkler heads. A sprinkler system shall meet the requirements of chs. SPS 361 to 366, the Wisconsin Commercial Building Code and any applicable local ordinances for a building of 16 or fewer beds or for a building with 17 or more beds. A sprinkler system shall be installed in accordance with the manufacturer's instructions.

**Note:** See s. DCF 52.55 (7) for inspection and maintenance requirements for sprinkler systems.

(b) Sprinklered residential living areas in a building shall be separated from adjacent non-sprinklered or non-fire proof construction areas in the same building by at least a 2-hour rated fire wall separation.

(c) A center which serves residents who are not able to walk or are able to walk only with crutches or other means of support shall comply with accessibility requirements found in appendix B of this chapter.

**(3) INTERIOR DOORS.** (a) Except for locked rooms or units under s. DCF 52.42, all interior doors, including those for closets, shall have fastenings or hardware that will allow opening from the inside with one hand without the use of a key.

(b) The design of a door equipped with a lock or latch shall permit opening the door from either side in case of emergency.

(c) In a building housing residents, an employee on each work shift shall have a key or other means of opening doors with locks or closing devices in that area.

**(4) ACCESSIBILITY.** Accessibility requirements in appendix B of this chapter shall be met for residents.

**(5) ELECTRICAL.** (a) Electrical wiring, outlets and fixtures shall be properly installed and maintained in safe working condition as required under ch. SPS 316.

(b) The minimum number of fixtures and outlets shall be as follows:

1. At least one approved ceiling or wall-type electric light fixture for every lavatory, bathroom, kitchen or kitchenette, dining room, laundry room and furnace room, with no less than 5 foot-candles of light at floor level in the center of the room, and with switches or equivalent devices for turning on at least one conveniently located light in each room and passageway to control the lighting in the area. The center may substitute a switched fixture for a ceiling or wall fixture in lavatories, bathrooms and dining rooms.

2. Duplex outlets as follows:

a. At least one outlet in each resident bedroom and in each laundry area and bathroom.

b. At least 2 outlets in any other habitable room including a dining room.

c. At least 3 outlets in the kitchen, with separate outlets for the refrigerator and electric stove.

3. Ground fault interrupt protection for any electrical outlet within 6 feet of a water source in a bathroom, kitchen area, laundry room or basement and on the exterior of the facility and in the garage.

(c) Extension cords may not be used inside buildings to provide regular electrical service. Where extension cords are used inside buildings, the center shall plug extension cords into underwriters laboratories (U.L.) approved fused convenience outlets or outlet banks.

(d) A center may not have any temporary wiring or exposed or abandoned wiring.

(e) Center electrical service inspections shall be completed by a certified inspector as required under ch. SPS 316.

**History:** Cr. Register, February, 2000, No. 530, eff. 9-1-00; correction in (2) (a) made under s. 13.93 (2m) (b) 7., Stats., Register, June, 2001, No. 546; CR 04-040; am. (1) (a) 1., (b) and (2) Register December 2004 No. 588, eff. 1-1-05; correction in (3) (a) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635; correction in (1) (a) 1., (b), (c), (2) (a), (5) (a), (e) made under s. 13.92 (4) (b) 6., 7., Stats., Register December 2011 No. 672, eff. 1-1-12.

**DCF 52.52 General physical environment. (1) RESIDENT LIVING SPACE.** (a) *Center buildings housing 9 or more residents.* Buildings constructed or other facilities converted to resident living space for 9 or more residents after February 1, 1971 shall contain resident living space at least equal to 60 square feet per resident. In this paragraph, "resident living space" means indoor living and recreation space in addition to bedroom space and dining space and exclusive of hallways less than 7 feet in width, bathrooms, lockers, offices, storage rooms, latched or locked time-out rooms, locked units, staff rooms, furnace rooms, any unfinished part of a building and that part of the kitchen occupied by stationary equipment.

(b) *Center buildings housing 8 or fewer residents.* Center buildings housing 8 or fewer residents shall provide at least 200 square feet of combined resident living space, bedroom space and dining space for each occupant. In this paragraph, "resident living space" includes all areas of the house except an unfinished basement, attic, or similar areas not usually occupied in daily living.

(2) **DINING SPACE.** A center shall provide at least 15 square feet of dining space for each occupant.

(3) **WINDOWS.** (a) All windows through which sunlight enters shall have appropriate coverings, and all openable windows shall have insect-proof screens in the summer.

(b) A center which is licensed for the first time or moves to a new location after September 1, 2000 shall meet the window requirements of chs. SPS 361 to 366.

(4) **TEMPERATURES AND AIRFLOW.** (a) The inside temperature of a center building for residents may not be lower than 67° F. (20° C.).

(b) 1. The inside temperature of a center building for residents may not be higher than 85° F. (30° C.).

2. A center without a system to maintain the inside temperature below 85° F. (30° C.) shall provide direct air circulation with electrical fans and have openable windows or provide fresh air flow or give residents access to air conditioned areas for heat relief.

(5) **FURNISHINGS.** Each room used by residents shall contain furnishings appropriate for the intended use of the room. Furnishings shall be safe for use by residents and shall present a comfortable and orderly appearance.

(6) **UPKEEP.** (a) Centers shall keep all rooms used by residents clean and well-ventilated.

(b) Residents shall be responsible only for the cleanliness of their bedrooms or living areas. A center may not hold residents responsible for the general cleanliness of the center.

(7) **TELEPHONE.** (a) A non-pay telephone shall be available for use by residents in each building housing residents.

(b) Each phone shall have emergency numbers posted near it for the fire department, police, hospital, physician, poison control center and ambulance service.

**History:** Cr. Register, February, 2000, No. 530, eff. 9-1-00; correction in (3) (b) made under s. 13.93 (2m) (b) 7., Stats., Register December 2004 No. 588; correction in (3) (b) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672, eff. 1-1-12.

**DCF 52.53 Bath and toilet facilities.** A center shall meet all of the following requirements for bath and toilet facilities and the use of them:

(1) (a) The center shall provide in buildings housing residents one toilet and either a tub or shower for every 8 residents or fraction thereof and one handwashing sink with hot and cold running water for every 4 residents or fraction thereof. At least one-half of the required toilets, tubs or showers and handwashing sinks shall be on the same floor or floors as the sleeping rooms.

(b) Where 9 or more residents reside in a building, the center shall also provide at least one toilet and handwashing sink with hot and cold running water near living rooms and recreation areas for every 8 residents or fraction thereof and provide separate bath and toilet facilities for staff.

(c) In buildings housing both male and female residents, the center shall provide separate bathrooms for each sex and provide separate combination toilet and handwashing sink facilities where center resident activities include both sexes.

(2) Bathroom facilities accessible only through a resident bedroom shall be counted only for the residents of the bedroom.

(3) Every room with a toilet shall have a handwashing sink with hot and cold running water.

(4) If a resident needs assistance in toileting and bathing, a center shall direct a staff member to provide that assistance.

(5) All sinks, tubs and showers shall have an adequate supply of hot and cold water. Hot water shall be regulated by a plumbing industry approved temperature control device such as a mixing valve. The temperature of water delivered at the tap may not exceed 110° F. (43° C.).

(6) All bath and toilet areas shall have good lighting and ventilation and be maintained in a sanitary condition. Safety strips shall be applied to the floors of tubs and showers to prevent slipping.

(7) Toilets, bathtubs and showers used by residents shall be equipped for privacy unless specifically contraindicated for a particular resident by that resident's treatment or care needs, and even then privacy in relation to other residents shall be provided.

(8) The center shall provide each resident with items, conditions and access necessary for personal hygiene and self-grooming including, but not limited to, all of the following:

(a) An individual toothbrush and tube of toothpaste.

(b) Access to a shower or bathtub daily, unless medically contraindicated.

(c) An individual hair brush and comb and regular services of a barber or beautician.

(d) Equipment and facilities for shaving and washing.

(e) Mirrors.

(f) Clean individual towels, washcloths and individually dispensed soap.

**History:** Cr. Register, February, 2000, No. 530, eff. 9-1-00.

**DCF 52.54 Bedrooms. (1) MINIMUM SPACE.** (a) *Single occupancy.* Each center bedroom for one resident shall have a minimum of 80 square feet of floor space except that if the resident

is not able to walk or is able to walk only with crutches or other means of support the bedroom shall have a minimum of 100 square feet of floor space.

(b) *Shared occupancy.* Each center bedroom for more than one resident shall have a minimum of 60 square feet of floor space for each resident except that if a resident is not able to walk or is able to walk only with crutches or other means of support, the bedroom shall have a minimum of 80 square feet of floor space for each resident.

(2) **MAXIMUM NUMBER OF RESIDENTS.** No bedroom may accommodate more than the following:

(a) Four residents in a facility initially licensed before September 1, 2000.

(b) Two residents in a facility initially licensed on or after September 1, 2000.

(3) **WALLS OR PARTITIONS AND DOORS.** (a) Each bedroom shall be enclosed on 4 sides by walls or partitions. The walls or partitions shall be:

1. At least 6 feet in height in facilities initially licensed prior to September 1, 2000.

2. Floor-to-ceiling fixed partitions or walls in facilities initially licensed on or after September 1, 2000.

(b) Each bedroom shall have an outside wall with a window that is openable to the exterior.

(c) Each bedroom shall have a door.

(4) **PROHIBITED LOCATIONS.** A center may not locate a resident bedroom in an unfinished basement or attic or in any other area not normally used as a bedroom.

(5) **PROHIBITED USE.** (a) No bedroom may be used by anyone who is not an occupant of the bedroom to gain access to any other part of the center or any required exit.

(b) No resident bedroom may be used for purposes other than as sleeping and living space for bedroom occupants.

(6) **BEDS AND BEDDING.** (a) A center shall provide each resident with a single bed appropriate to the resident's needs. The bed may not be less than 36 inches wide or shorter than the height of the resident. A bed shall have all of the following:

1. A mattress that is firm, clean, comfortable and in good condition.

2. A mattress pad, 2 sheets, 2 blankets, a pillow case, a clean, comfortable pillow and a bedspread.

3. A mattress cover that is waterproof if the resident is incontinent.

(b) 1. A center shall provide a change of sheets and pillow case at least once a week for each resident.

2. A center shall provide a change in bedding immediately when a resident wets or soils the bed.

3. A center shall provide a complete change of bedding upon a change in bed occupancy.

(c) A bed may not be located closer than 18 inches to a hot contact type of heat source such as a hot water radiator.

(d) Beds shall be at least 3 feet apart at the head, foot and sides, except that a bunkbed shall be at least 5 feet apart at the sides from another bed. Bunk beds shall provide at least 36 inches of headroom between the bedroom ceiling and the top mattress. A triple decker bed may not be used.

(7) **STORAGE SPACE.** A center shall provide each resident with sufficient private space in or near the resident's bedroom for personal clothing and possessions. Each resident shall have a closet or wardrobe located in or next to the bedroom.

(8) **ASSIGNED BEDROOMS.** (a) In assigning a resident to a bedroom, a center shall consider the resident's age and developmental needs and be guided by any clinical recommendations.

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

(9) **SLEEPING SCHEDULE.** Residents shall have set routines for waking and sleeping. Each resident in the daily routine shall have available at least 8 hours of sleep.

(10) **DISABLED RESIDENTS.** Bedrooms for residents who are not able to walk or who can walk only with a means of support such as crutches shall be located on a floor level that has an exit discharging at grade level.

(11) **RESIDENT POSSESSIONS.** A center shall permit a resident to have personal furnishings and possessions in the resident's bedroom, unless contraindicated by the resident's treatment plan.

**History:** Cr. Register, February, 2000, No. 530, eff. 9-1-00.

**DCF 52.55 Fire safety.** (1) **EVACUATION PLAN.** A center in consultation with the local fire department shall develop a detailed flow chart type evacuation plan for each building with arrows pointing to exits. The center shall do all of the following:

(a) Post the evacuation plan for a building in a conspicuous place in the building.

(b) Be able to provide through plan procedures for both of the following:

1. Safe conveyance of all residents promptly from the center by staff in one trip.

2. Designated places away from the center to which all residents are evacuated or at which all are to meet so that it can be determined if all residents are out of danger.

(c) Make the evacuation plan familiar to all staff and residents upon their initial arrival at the center.

(2) **EVACUATION DRILLS.** (a) Each center shall conduct evacuation drills as follows:

1. An announced drill at least once every 2 months.

2. An unannounced drill at least every 6 months.

(b) A center shall maintain a log of all evacuation drills that records the date and time of each drill, the time required to evacuate the building and any problems associated with the evacuation.

(3) **FIRE DEPARTMENT INSPECTION.** A center shall arrange for the local fire department to conduct a fire inspection of the center each year. The center shall maintain on file a copy of inspection report.

(4) **SMOKE DETECTION SYSTEM.** (a) Smoke detectors shall be installed and in accordance with ch. SPS 316 and chs. SPS 361 to 366, the Wisconsin Commercial Building Code, applicable local ordinances, and this section. Individual smoke detectors shall be tested according to the manufacturer's instructions but not less than once a month. Interconnected smoke detectors shall be inspected and maintained in accordance with the manufacturer's or installer's instructions and shall be tested not less than every 3 months. The center shall keep a log of the tests with dates and times.

(b) A center built or initially licensed before 1982 shall have, at minimum, a battery operated smoke detection system meeting the requirements under pars. (a) and (c) 3. and 5.

(c) A center built in 1982 or later or a licensee moving a center to a different building after September 1, 2000 shall have an interconnected smoke detection system meeting all of the following requirements:

1. Except as provided under subd. 2., a building housing residents shall have, at a minimum, a smoke detection system to protect the entire building. That system shall either trigger alarms throughout the building or trigger an alarm located centrally. The alarm shall be audible throughout the building when the detector activates.

2. A building that has no more than 8 beds may have a radio-transmitting smoke detection system located in a central area of the building. That system shall trigger an audible alarm heard throughout the building.

3. A smoke detection system shall be installed in accordance with the manufacturer's instructions.

4. An interconnected smoke detection system installed on or after September 1, 2000 shall have a secondary power source.

5. A center shall have a smoke detector located in at least the following locations in each building housing residents:

- a. In the basement.
- b. At the head of every open stairway.
- c. At the door on each floor level leading to every enclosed stairway.
- d. In every corridor, spaced in accordance with the manufacturer's separation specifications.
- e. In each common use room, including every living room, dining room, family room, lounge and recreation area.
- f. In each sleeping area of each living unit or within 6 feet from the doorway of each sleeping area.

6. Smoke detectors shall not be installed in a kitchen.

**(5) STAIRWAY SMOKE CONTAINMENT.** A center shall provide floor-to-floor smoke cut-off through a one hour labeled fire-resistant self-closing door for open interior stairways and for all enclosed interior stairways at each floor level to provide floor to floor smoke separation.

**(6) HEAT SENSING DEVICES.** A center shall have heat-sensing devices in the kitchen and attic.

**Note:** It is recommended that a rate-of-rise heat detector be used in an attic rather than a fixed temperature heat detector. Rate-of-rise heat detectors respond to a fire sooner, particularly when it is cold outside. It is recommended that a fixed temperature heat detector be used in the kitchen.

**(7) SPRINKLER SYSTEM INSPECTION.** Where a sprinkler system has been installed under s. DCF 52.51 (2), the system shall be inspected and tested in accordance with NFPA Code 25. The center shall keep a copy of the certification of inspection on file.

**(8) FIRE SAFETY TRAINING.** All center staff shall take a technical college course or receive training from someone who has taken a technical college "train the trainer" course on fire safety and evacuation developed for community-based residential facilities regulated under ch. DHS 83. New center staff shall take the training within 6 months after beginning work at the center. All center staff shall be familiar with all of the following:

- (a) Facility fire emergency plans and evacuation procedures.
- (b) Fire extinguisher use.
- (c) Fire prevention techniques.

**(9) FLAMMABLES.** (a) A center shall keep all flammable liquid fuels in separate buildings not attached to buildings housing residents. Flammable liquid fuels shall be inaccessible to residents. Storage and labeling of flammable liquid fuel containers shall meet requirements for portable tank storage in ch. SPS 314. A center shall limit total storage to 10 gallons in each of the separate buildings, except for the contents of the gasoline tanks of motor vehicles.

(b) Other flammables such as paints, varnishes and turpentine shall be stored in fire-proof cabinets meeting the requirements of chs. SPS 361 to 366. The center shall keep these flammables locked and inaccessible to residents, unless a flammable is used in an activity supervised by staff with experience in using these kinds of flammable liquids.

**(10) FIRE EXTINGUISHERS.** A center shall meet all of the following requirements for fire extinguishers:

- (a) Buildings or areas in which flammable liquids are stored, and kitchen areas, shall have a fire extinguisher with a 2A, 40 BC rating.
- (b) Other buildings shall have fire extinguishers with a minimum 2A, 10 BC, rating.
- (c) The number, location, mounting, placement and maintenance of fire extinguishers shall comply with chs. SPS 314 and 361 to 366.

(d) Each floor used for resident activities shall have at least one fire extinguisher.

**(11) PROHIBITED HEATING AND COOKING DEVICES.** (a) Center buildings housing residents may not use portable space heaters or any device which has an open flame.

(b) Bedrooms may not contain cooking devices.

**(12) ISOLATION OF HAZARDS.** Centers shall comply with chs. SPS 361 to 366, the Wisconsin Commercial Building Code and applicable local ordinances on isolation of hazards within buildings.

**(13) USE OF LISTED EQUIPMENT.** Smoke and heat detectors and sprinkler equipment installed under this section shall be listed by a nationally recognized laboratory that maintains periodic inspection of production of tested equipment. The list shall state that the equipment meets nationally recognized standards or has been tested and found suitable for use in a specified manner.

**History:** Cr. Register, February, 2000, No. 530, eff. 9-1-00; correction in (12) made under s. 13.93 (2m) (b) 7., Stats., Register, June, 2001, No. 546; CR 04-040: am. (4) (a) and (12) Register December 2004 No. 588, eff. 1-1-05; correction in (10) (c) made under s. 13.93 (2m) (b) 7., Stats., Register December 2004 No. 588; corrections in (7), (8) (intro.) and (9) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635; correction in (4) (a), (9) (a), (b), (10) (c), (12) made under s. 13.92 (4) (b) 7., Stats., Register December 2011 No. 672, eff. 1-1-12.

**DCF 52.555 Carbon monoxide detector.** **(1)** A residential care center in a one-unit or two-unit building shall have a functional carbon monoxide detector installed in the basement and on each floor level, except the attic, garage, or storage area of each unit, in accordance with the requirements of s. 101.647, Stats.

**Note:** A one-unit building is a single family residence. A two-unit building is a duplex or two-flat.

**(2)** A residential care center in a building with at least 3 units shall have one or more functional carbon monoxide detectors installed in accordance with the requirements of s. 101.149, Stats.

**History:** EmR1106: emerg. cr., eff. 9-16-11; CR 11-026: cr. Register December 2011 No. 672, eff. 1-1-12.

**DCF 52.56 General safety and sanitation.** **(1) PRIVATE WELL WATER SUPPLY.** Use of a private well for the center's water supply is subject to approval by the Wisconsin department of natural resources as required by s. DHS 190.05 (2). Testing of water samples shall be done annually by the state laboratory of hygiene or a laboratory approved under ch. ATCP 77. Water samples from an approved well shall be taken between April and October. Water sample tests shall show that the water is safe to drink and does not present a hazard to health. Water sample test results shall be on file and available for review by the department.

**(2) MAINTENANCE.** (a) A center shall maintain all of its buildings, grounds, equipment and furnishings in a safe, orderly and proper state of repair and operation. Broken, run down, defective or inoperative furnishings and equipment shall be promptly repaired or replaced.

(b) The center's heating system shall be maintained in a safe condition as determined through an annual inspection by a certified heating system specialist, installer or contractor. The center shall keep on file copies of annual heating system inspection and service reports.

**(3) HAZARDOUS BUILDING MATERIALS.** Buildings shall be lead-safe if lead-based paint is present, shall have any friable asbestos maintained in good condition and shall be free of urea formaldehyde insulation and any other harmful material which can pose a hazard.

**(4) FLOORS.** The surface condition of all floors in a center shall be safe for resident use.

**(5) EXITS.** (a) *Egress requirements.* A center shall comply with chs. SPS 361 to 366, the Wisconsin Commercial Building Code and applicable local ordinances for number and location of exits, type of exits, exit passageways, and illumination of exits and exit signs.

(b) *Time delayed door locks.* Before a center installs time delayed door locks on exits, the center must first request and obtain department of safety and professional services and department approval. Before a center installs time delayed door locks on any interior doors, the center must also request and obtain department of safety and professional services and department approval.

(6) **WALKS.** Walks shall provide convenient all-weather access to buildings and shall be in a safe condition. Porches, elevated walkways and elevated play areas shall have barriers to prevent falls.

(7) **ROOMS BELOW GRADE.** Habitable rooms with floors below grade level shall be in compliance with chs. SPS 361 to 366, the Wisconsin Commercial Building Code and applicable local ordinances.

(8) **OCCUPANCY AND GARAGE SEPARATION.** Residential buildings shall be separated from attached garages by a one-hour rated fire wall separation that either abuts a ceiling in the garage that will withstand fire for one hour or extends up to the underside of the garage roof.

(9) **GLASS HAZARDS.** Areas of a building where the risk is high for residents either to run into windows or where impact on glass presents a risk or hazard shall have screening or safety glass resistant to shattering. Replacement glass in areas exposed to potential hazardous impact shall meet the standards in chs. SPS 361 to 366, the Wisconsin Commercial Building Code and applicable local ordinances.

(10) **PSYCHIATRIC SCREENING.** (a) In this subsection, "psychiatric screening" means heavy mesh wire or translucent non-breakable material placed over window openings to prevent egress.

(b) Psychiatric screening may be installed in areas where risk or hazard is greatest and in a way that preserves a reasonable living environment. Psychiatric screening installed in windows shall not hinder air exchange or the passage of light through the window.

(c) Before installing psychiatric screening, the center shall have department approval and shall obtain local fire department approval.

(11) **PROTECTIVE MEASURES.** The center shall provide screens or guards for all steam radiators, electric fans, electrical heating units and hot surfaces such as pipes. Fire detectors and emergency lights which could be vandalized by residents shall be protected by wire cages or by other acceptable means.

(12) **EMERGENCY POWER.** Buildings housing 20 or more residents shall have emergency power as required in ch. SPS 316.

(13) **SEWAGE DISPOSAL.** A center shall use a municipal sewage system if one is available. If use of an independent or private sewage system is necessary, the installation shall comply with ch. NR 110.

(14) **SWIMMING POOLS.** Any center swimming pool shall comply with chs. SPS 390 and ATCP 76.

(15) **POWER TOOLS AND EQUIPMENT.** Residents may not be permitted in areas where power tools or equipment are used, except when power tools are part of a supervised educational program or supervised work activity.

(16) **DANGEROUS MATERIALS.** Poisons and other harmful substances shall be prominently and distinctly labeled. Poisons and other harmful substances shall be stored under lock and key and made inaccessible to residents. The center shall take special precautions when poisons and other harmful substances are in use to prevent contamination of food or harm to residents.

(17) **SANITATION.** A center shall comply with sanitation standards under ch. DHS 190, except that a center having a kitchen serving 10 or fewer residents need not comply with s. DHS 190.09 (5) (d).

(18) **FIREARMS.** No firearms or ammunition may be on the center premises. Residents may not have in their possession per-

sonal knives or other implements, devices or substances that may threaten the safety of others.

(19) **CHEMICAL WEAPONS.** No chemical weapon such as mace may be kept on the premises of the center.

(20) **ALCOHOLIC BEVERAGES AND CONTROLLED SUBSTANCES.** No alcoholic beverages or nonprescribed controlled substance may be consumed or stored on the premises of the center.

(21) **TOBACCO PRODUCTS.** (a) Each center shall have a written policy on staff use of tobacco on the center grounds. Smoking by center staff may only take place outside of licensed center buildings.

(b) Residents may not possess or use tobacco products.

(22) **EMERGENCY TRANSPORTATION.** A center shall have an operable motor vehicle immediately accessible for use in an emergency.

(23) **TORNADO PREPAREDNESS.** A center shall have a written plan for response to the threat of tornados. The plan shall be posted at a conspicuous location at the center. The center shall do all of the following:

(a) Orient new staff and residents upon their arrival to the center's tornado preparedness plan. Each year the center shall practice implementation of the plan once in the spring and once in the fall.

(b) Inform all staff members of their duties in the event that a tornado hits.

(c) Keep a record in writing of the date and time of each tornado practice exercise.

(24) **RECREATIONAL PURSUITS.** (a) *Camping facilities.* A residential care center for children and youth that operates or uses camping facilities shall comply with requirements for recreational camps established under ch. ATCP 78, if applicable.

(b) *Adventure-based experiences.* 1. A center providing adventure-based experiences such as a ropes course, rock climbing, wilderness camping and hiking experiences to residents shall ensure that personnel leading and providing training to residents are trained and have experience for the type of adventure-based experience, and that equipment used in the experiences are properly installed, in good condition and in good working order.

2. Before a resident is permitted to participate in an adventure-based experience, the center shall ensure that the resident's medical history does not prohibit participation in the type of activity planned. If there is a question about a resident's ability to participate for medical reasons, the center shall not permit participation without the approval of the resident's physician and the resident's parent or guardian.

3. Staff-to-resident ratios shall be adequate to manage and supervise the experienced-based adventure based upon the number of residents and type of activity.

**History:** Cr. Register, February, 2000, No. 530, eff. 9-1-00; correction in (7) made under s. 13.93 (2m) (b) 7., Stats., Register, June, 2001, No. 546; CR 04-040: am. (5) (a), (7) and (9) Register December 2004 No. 588, eff. 1-1-05; corrections in (1), (14), (17) and (24) (a) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635; correction (5) (a), (b), (7), (9), (12), (14) made under s. 13.92 (4) (b) 6., 7., Stats., Register December 2011 No. 672, eff. 1-1-12; EmR1414: emerg. am. (24) (a), eff. 8-1-14; CR 14-054: am. (24) (a) Register April 2015 No. 712, eff. 5-1-15; correction in (14), (24) (a) made under s. 13.92 (4) (b) 7., Stats., Register January 2017 No. 733.

## Subchapter VII — Specialized Programs

### DCF 52.57 Exceptions and additional requirements for type 2 programs.

(1) **APPLICABILITY AND AUTHORITY TO OPERATE.** A residential care center for children and youth designated by the Wisconsin department of corrections as a type 2 child caring institution may accept type 2 resident admissions only if approved by the department under the center's license to operate a type 2 program.

(2) **TYPE 2 PROGRAM COMPLIANCE.** (a) A residential care center for children and youth with a type 2 residential care center program shall comply with this chapter for youth who are admitted

with type 2 status, except as otherwise provided under subs. (3) and (4), with type 2 provisions under ch. 938, Stats., and with any type 2-related policies and procedures and administrative rules that may be issued by the Wisconsin department of corrections.

(b) Violation of any type 2 related policy or procedure or administrative rule referenced in par. (a) constitutes a violation of this chapter.

**(3) TYPE 2 TEMPORARY REPLACEMENTS.** (a) *Applicability.* The provisions of this chapter apply for type 2 temporary replacements except for s. DCF 52.21 (1), (2), (4), (6), (7) and (8) (a) and ss. DCF 52.22 and 52.23.

(b) *Type 2 temporary replacement into same center.* For type 2 replacements into a type 2 residential care center for a temporary placement lasting 10 days or less, the center shall document in the resident's record all of the following:

1. The name of the agency and person authorizing replacement along with the placement agreement outlining care arrangements, expectations and special conditions, if any, on the resident.
2. Reason or precipitating incident or incidents for replacement being imposed.
3. Behaviors which the resident has been advised will lead to a type I sanction placement.
4. Center-provided service efforts to treat reasons for the resident's type 2 replacement.
5. Any notable incidents by the resident during the resident's stay.
6. Summary assessment of resolution of the issues identified under subd. 4. at discharge.
7. Names of person and agency to which the resident was discharged.

(c) *Type 2 temporary replacement into a different type 2 center.* Type 2 replacement into a type 2 residential care center that is not the type 2 residential care center in which the resident was originally placed shall meet the requirements under sub. (2) as though the type 2 resident was a first time type 2 admission. The rule section exceptions under par. (a) do not apply under this paragraph.

**(4) TYPE 2 READMISSIONS.** (a) Readmission within 6 months. A type 2 residential care center shall comply with the provisions for short-term programs under s. DCF 52.58 for a type 2 readmission of a youth to the same residential care center from which the youth was discharged within the previous 6 months.

(b) *Readmission 6 months or more after being discharged or readmission to a different type 2 center.* A type 2 residential care center shall comply with sub. (2) when a type 2 readmission to the same residential care center occurs 6 months or more after the youth was discharged or when the youth is readmitted to a different type 2 residential care center.

**History:** Cr. Register, February, 2000, No. 530, eff. 9-1-00; corrections in (3) (a) and (4) (a) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635.

**DCF 52.58 Exceptions and additional requirements for short-term programs.** (1) **APPLICABILITY.** (a) A residential care center for children and youth may operate a short-term treatment program with approval of the department. This section applies to the operation of short-term treatment programs. A short-term treatment program shall comply with all provisions of this chapter except as provided in this section.

(b) The requirements of this section apply to short-term resident readmissions except that the assessment and treatment care plan for the resident under sub. (5) needs only be updated to reflect the resident's current treatment and care needs.

**(2) DEFINITIONS.** In this section:

(a) "Short-term resident admission" means a short-term resident whose stay at the center is expected to be 90 days or less or whose return to the center for another short-term stay readmission occurs 90 days or more from the resident's discharge from that center or who is placed into a different center for short-term care readmission.

(b) "Short-term resident readmission" means a short-term resident whose readmission to the center for another short-term stay occurs less than 90 days from his or her discharge from that center and whose stay at the center may be of varying periodic episodes within a 90 day period.

(c) "Short-term treatment program" means a program of temporary residential care and treatment service delivery to a resident whose placement is transitional for purposes of assessment, treatment, and planning for placement back into the community. "Short-term treatment program" does not include a respite care service program under s. DCF 52.59 or a crisis stabilization program certified under ch. DHS 34.

**(3) PROGRAM STATEMENT.** In place of the requirements for a program statement and operating plan under s. DCF 52.41 (1) (intro.), (a) and (b), a center that operates a short-term treatment program shall have a treatment program statement that includes all of the following:

(a) A narrative covering treatment purpose, philosophy, approach and methods for short-term transitional placement into the community.

(b) Identification of short-term treatment program professional service providers and consultants involved in short-term transitional placement efforts that are center or community based.

(c) Identification of any coordinating service and placement agencies.

(d) A description of the extent to which the center's short-term program is compatible with or will operate separately, including in residential living arrangements, from the center's non-short-term residential program. If it will be operated separately, identification of the building or area in which the short-term program will be operated.

(e) A description of arrangements for continuing education of short-term residents.

(f) A description of health care arrangements for short-term residents, including the process for securing medical authorizations for general and emergency medical care including surgery.

(g) A description of recreational activities and programming available for short-term residents.

**(4) ADMISSIONS.** A center operating a short-term treatment program shall meet the provisions of s. DCF 52.21, except s. DCF 52.21 (5) (a) and (8) (a), and all of the following:

(a) *Obtaining authorizations.* For a short-term resident, the center as part of written admissions procedures shall obtain authorization from the parent or guardian of a resident for the center to do all of the following:

1. Provide or arrange for routine medical services and procedures, including dental services and non-prescription and prescription medications.

2. Obtain from a health care authority the authority to delegate and supervise administration of medications by center-authorized staff and for staff to handle and provide the medication to the resident and observe self-administration of the medication by the resident.

3. Obtain other medical information as needed on the resident.

4. Obtain written authorization to provide or order, when necessary, emergency medical procedures including surgery, when there is a life-threatening situation and it is not possible to immediately reach the parent or guardian authorized to give signed written specific informed consent.

(b) *Health screening.* Upon admission of a short-term resident, center staff shall do both of the following:

1. Observe the resident for evidence of ill health. A staff person capable of recognizing common signs of communicable diseases or other evidence of ill health shall make this observation. The new resident's temperature shall also be taken and evaluated. If the new resident shows overt signs of communicable disease or

other evidence of ill health, the center shall make arrangements for immediate examination by a health care practitioner.

2. Arrange for or obtain the results of a complete physical examination comparable to a HealthCheck examination for each resident in accordance with the HealthCheck periodicity schedule.

(c) *Preliminary care and treatment plan.* 1. Upon admission of a new short-term resident to a center for a short-term treatment program, the center shall develop a preliminary care and treatment plan for the new resident pending completion of the short-term program assessment and treatment plan under sub. (5) (b).

2. The preliminary care and treatment plan shall be based on the center's review of information received from the referral agency and the center's professional intake staff person's initial evaluation of the new resident's treatment and care needs.

3. The preliminary care and treatment plan shall be completed within 7 calendar days of a short-term resident's admission and shall identify or describe all of the following:

a. Referral agency goals and objectives for the resident, if any, and center care and treatment objectives for the resident.

b. The primary or immediate presenting behavior issues of the resident.

c. Center services to be provided to the resident to address those primary or immediate presenting behavior issues.

d. Any special immediate medical or dietary needs.

**(5) ASSESSMENT, TREATMENT PLANNING AND DISCHARGE PLANNING.** (a) *General.* A center's short-term treatment program shall meet the assessment and treatment planning requirements under par. (b), instead of those under s. DCF 52.22, for each resident. Center staff shall date and document meeting these requirements in each short-term resident's record.

(b) *Assessment and treatment and care planning.* A plan for a short-term care resident's care and treatment shall be developed within 15 calendar days of admission. The plan shall include all of the following:

1. 'Assessment.' A documented assessment of the resident's needs both immediate and for transition to community placement. The assessment shall be conducted where possible with resident care worker staff who will work with the resident, the placing person or agency, the resident if 12 years of age or older, a center social worker and, as necessary, professional consultants. The assessment shall cover all of the following:

a. Presenting issues or problems. These may include behavioral functioning, emotional or psychological status, personal and social development and familial relationships.

b. Educational needs.

c. Recreational interests and abilities.

d. Perceived barriers or risks in making the transition to community placement.

e. Services necessary to address assessment areas.

2. 'Treatment and care plan.' A dated treatment and care plan developed where possible by the persons or agencies identified under subd. 1. that is time-limited, goal-oriented and individualized to meet specific resident needs identified in the assessment under subd. 1. The plan shall include all of the following components:

a. Identification of staff and services to be provided or arranged by the center to meet the resident's needs.

b. A statement of behavioral or functional objectives that specifies resident behaviors to be addressed with the objectives focused on preparing the resident for transition to community based placement services and other placement arrangements.

c. Transitional planning arrangements with the placing agency which provide for continuity in programming when the resident is placed into the community.

d. Arrangements for continuing educational services and other programming during the resident's stay at the center.

3. 'Treatment plan implementation and review.' a. A short-term resident's services case manager shall coordinate, monitor and document in the resident's treatment record a review and assessment of the treatment and care plan for the resident no later than 30 days after admission and at least every 30 days thereafter to determine the resident's readiness for community placement by considering the resident's strengths and suitability for community placement.

b. The review and assessment under subd. 3. shall identify the reason for continued placement at the center, any planning efforts for community placement, barriers to placement in the community and plans to eliminate those barriers and recommendations if any, for changes in transitional placement planning or in efforts to prepare the resident for community placement.

c. In documenting a review and assessment of the treatment and care plan for a resident, the resident's services case manager shall enter the date of the review and list the participants in the review.

(c) *Discharge planning.* A short-term treatment program need only comply with sub. (2) in s. DCF 52.23, and shall include documentation of all of the following in any discharge plan for a resident:

1. The date and reason for discharge.

2. New location of the resident.

3. A brief statement identifying resident readiness for discharge and placement elsewhere and remaining needs.

4. Name and title of person and agency to which the resident was discharged.

5. For an unplanned discharge, a brief summary or other documentation of the circumstances surrounding the discharge.

**(6) RESIDENT RECORDS.** A short-term treatment program shall meet the resident record requirements in this section and in s. DCF 52.49 except under s. DCF 52.49 (2) (b) 1. a. to g. and 3.

**(7) TRAINING AND EVALUATION.** (a) Initial training for staff of short-term treatment programs shall include training in the following areas:

1. Wrap around principles and philosophy.

2. Arranging for transitional care and transitional placement planning principles and methods.

(b) A center shall at least annually evaluate its short-term treatment care program through a center survey to be completed and returned to the center by referral sources. The center shall use the survey information to improve, as necessary, its short-term care program.

**History:** Cr. Register, February, 2000, No. 530, eff. 9-1-00; corrections in (2) (c), (3) (intro.), (4) (intro.), (5) (a), (c) (intro.) and (6) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635; EmR1414; emerg. am. (2) (c), (4) (b) 1., 2., eff. 8-1-14; CR 14-054; am. (2) (c), (4) (b) 1., 2., (5) (b) 2. d. Register April 2015 No. 712, eff. 5-1-15.

### **DCF 52.59 Respite care services programs.**

**(1) APPLICABILITY.** A residential care center for children and youth may operate a respite care services program with approval of the department. A residential care center for children and youth that chooses to provide respite care services shall comply with the provisions of this chapter except as stated in this section.

**(2) DEFINITIONS.** In this section:

(a) "Respite care" means temporary care for a child with a disability or special care need, usually on behalf of a parent or regular caregiver for the purpose of providing relief to the parent or regular caregiver from the extraordinary and intensive demands of providing ongoing care for the child, but also for when a parent or regular caregiver may be at risk of abusing a child due to stress and, therefore, requires relief from caregiver duties, or the parent or regular caregiver is in a crisis situation that can be alleviated by providing temporary relief from caregiver duties.

(b) “Respite care services episode” or “episode” means a period of time during which respite care is provided to a parent or regular caregiver by placing a child, otherwise under the parent’s or regular caregiver’s care, at a residential care center.

(c) “Respite care services program” means a center–provided program of respite care services for a child with a disability or special need on behalf of a parent or regular caregiver and includes, for the child, individualized personal care and services at the level necessary to meet the child’s immediate needs, along with room and board provided in comfortable surroundings.

**(3) EXCEPTIONS FOR RESPITE CARE PROGRAMS.** Respite care programs shall comply with all provisions of this chapter except the following:

- (a) Section DCF 52.21 (1), (2), (5) (a) and (8) (a).
- (b) Sections DCF 52.22 and 52.23.
- (c) Section DCF 52.41.
- (d) Section DCF 52.49 (2) (b) 1. a. to g. and 3.

**(4) PROGRAM STATEMENT.** A center accepting respite care clients shall have a program statement describing its respite care services program. The program statement shall cover at minimum all of the following:

- (a) The purposes for which respite care is provided and the type of population served.
- (b) Specific center assessment procedures and services available for care arrangements in assisting a child admitted for respite care.
- (c) Compatibility of the respite care services program component with other programs of the center.
- (d) Staffing arrangements for respite care services.
- (e) Health care arrangements for respite care placements, including the process for securing medical authorizations for general and emergency medical care including surgery.
- (f) Recreational activities and programming for respite care placements.

**(5) ADMISSIONS.** A center operating a respite care services program shall have all of the following written policies and procedures for admission of a prospective respite care resident:

(a) A policy regarding the type of respite care children who can be served, such as those who are emotionally disturbed, physically handicapped, medically needy or developmentally disabled, including the specific types of developmental disabilities served.

(b) Procedures for screening children referred for respite care to ensure that they are appropriate for the center’s respite care program.

(c) Procedures for obtaining parent or guardian written consents for emergency medical care and authorization for administration of medications.

(d) 1. Procedures for obtaining from the parent or other regular caregiver necessary and essential information for the temporary care of the child, which may include medical, behavioral, dietary, or emotional concerns and appropriate responses or instructions. Assessment shall cover at minimum the following areas: eating, toileting, mobility, communication, health problems, behavioral issues, socialization, supervision needs, and personal self–help.

2. Procedures for obtaining identifying information at the time of admission on the child and his or her family and information about current special needs of the child, including usual day activities; transportation arrangements; any appointments; current health problems; special equipment used; communication issues; behavioral issues; eating habits, schedule and preferences; sleeping habits and any usual bedtime routine; toileting concerns; safety concerns; discipline or behavioral management recommendations; preferred leisure time activities; and any other comments from the parent or regular caregiver.

(e) Procedures as described under s. DCF 52.21 (7) for orienting a child to the center’s respite care program, available care staff

and room arrangements, and assisting the child in any adjustment issues to the child’s temporary stay.

(f) Procedures for assigning specific care staff to a respite care child.

(g) Procedures for contacting the parent or other regular caregiver regarding care questions or in emergency situations.

(h) A policy on who may pick up the child or youth at the end of respite care and policies and procedures for establishing the date and time at which the child or youth is to be picked up.

(i) Procedures for making a record of all of the child’s personal belongings and medications upon arrival at the center.

(j) Procedures for maintaining a log with dates of all respite care episodes for each child.

**(6) STAFFING.** A center shall assign a staff person to have primarily responsibility for the center’s respite care services program. This person shall have experience in serving the type of disability or population the center serves. Staff–to–child ratios shall at minimum meet the ratio as otherwise prescribed in s. DCF 52.12 or be as needed to meet the needs of the respite care persons in care. The responsible staff person shall have access to medical, psychiatric, dietary and social services consultation as needed.

**(7) WRITTEN CARE PLAN.** (a) *Written care plan.* A center shall develop a written plan of care for each child admitted to the center for respite care.

(b) *Planning for the child.* 1. The written care plan shall be prepared in consultation with the child’s parent or other regular caregiver and prior to placement, except if the reason for placement is of a crisis emergency nature.

2. The written care plan shall provide for necessary service supports to meet social, emotional adjustment, medical, and dietary needs; physical environment accommodation; means for the respite care child to contact his or her parent or other regular caregiver; accommodations to meet physical disabilities such as requiring, if needed by the child or youth, a TTY device for the hearing impaired, handrails, or visual devices; and a planned variety of recreational activities. The educational needs of the child shall be attended to while in placement as prescribed by the parent or other regular caregiver.

(c) *Length of stay.* A respite care placement shall not extend beyond 9 days per episode unless department approval is first obtained.

**(8) DISCHARGE.** When a child is discharged from respite care, the residential care center shall document all of the following in the child’s respite care record:

(a) The dates of the child’s stay, a summary of the child’s stay with any significant incidents noted, and the name of the person to whom the child was discharged.

(b) A list of all personal belongings, medications, and medical equipment that went with the child upon discharge.

**(9) TRAINING AND EVALUATION.** (a) *Training.* 1. Training for staff of a respite care services program shall include training in the areas of arranging for transitional care and transitional placement planning principles and methods.

2. Staff shall have respite care training designed around the specific needs of individuals for which care is provided, such as autism, epilepsy, cerebral palsy and mental retardation. As part of this training, staff who have not already had some experience working with the type of individual to be cared for shall have at least 8 hours of supervised experience by someone who is knowledgeable in working with the type of individual or more than 8 hours if necessary to ensure the provision of competent care.

(b) *Evaluation.* After each respite care episode, a residential care center shall evaluate the care provided through a survey to be completed by the parent or other regular caregiver and, if possible, the child. The center shall use the survey information to improve, as necessary, its respite care services program and shall keep these surveys on file for one year from their completion.

(10) CLIENT RECORDS. A center with a respite care services program shall meet the resident record requirements found under this section and under s. DCF 52.49, except requirements under s. DCF 52.49 (2) (b) 1. a. to g. and 3. A respite care resident's record shall include all documentation required under this section.

**History:** Cr. Register, February, 2000, No. 530, eff. 9-1-00; corrections in (3), (5) (e), (6) and (10) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635; CR 14-054: am. (2) (a) to (c), (4) (b), (5) (a), (b), (d) 1., 2., (e), (f), (i), (7) (a), (b), (8), (9) (b) Register April 2015 No. 712, eff. 5-1-15; correction in (7) (b) 2. made under s. 35.17, Stats., Register September 2017 No. 741.

## Subchapter VIII — Need Determination and License Application

**DCF 52.61 Determination of need for additional beds.** (1) **AUTHORITY AND PURPOSE.** This section is promulgated pursuant to s. 48.60 (3), Stats., to regulate the establishment of new residential care centers for children and youth and to control the expansion of existing residential care centers in order to ensure an adequate number and variety of facilities to meet the needs of Wisconsin children who require out-of-home residential care and to prevent unnecessary expansion of residential care centers and the resulting increase in costs to Wisconsin citizens.

(2) **TO WHOM THE RULES APPLY.** This section applies to any new applicant for a license to operate a residential care center for children and youth and to existing residential care centers for children and youth wishing to expand the capacity of their facilities.

(3) **DEFINITION.** In this section, "applicant" means any person wishing to apply for a license to begin operation of a new residential care center for children and youth or any person wishing to expand the capacity of an existing residential care facility for children and youth. "Applicant" does not include a person who by reason of consolidation or other acquisition acquires control or ownership of beds when the consolidation or other acquisition results in no increase in or a reduction of the existing state-wide residential care center bed capacity.

(4) **CERTIFICATION OF NEED REQUIREMENT.** No person may apply for a license under s. DCF 52.62 (1) to operate a new residential care center for children and youth or for a license amendment under s. DCF 52.62 (3) to expand the bed capacity of an existing residential care center until the department has reviewed the need for the additional placement resources which would be created and has certified to the applicant in writing that a need exists for the proposed new placement resources.

(5) **DEMONSTRATION OF NEED.** To enable the department to make a determination of need for a new residential care center for children and youth or for additional beds at an existing residential care center for children and youth, the applicant shall submit all of the following documents and information to the department:

(a) A detailed plan for the operation of the proposed residential care center which includes all of the following:

1. The number, sex, and age range of the children to be served.
2. The type or types of needs or disabilities of children to be served.
3. The center staffing, including a list of full-time and part-time positions by job titles and numbers.
4. A description of the proposed program and treatment goals.
5. A proposed budget, including the current or projected per diem rate.
6. The location of the center and a drawing of the layout of the physical plant.

(b) A detailed written description of the methodology and findings which document the reasons why the unserved children under par. (a) cannot be served satisfactorily in less restrictive settings such as is in their own homes with treatment services provided to the children and their families, in specialized treatment foster homes or in group homes.

(c) Documentation meeting the criteria in sub. (7) (a) 2. that existing Wisconsin residential care center placement resources are not adequate to meet the needs of Wisconsin children who require the type or types of care and treatment services the applicant proposes to provide. No beds occupied or to be occupied by children who are placed primarily for educational purposes may be considered in determining need under this section. Of the remaining beds, for purposes of determining need and establishing waiting lists, not more than 40% shall be considered available for out-of-state children.

(d) Information that supports the probability that a new or expanded center will be used by Wisconsin placement resources, and that an expanded center will attain and maintain an average monthly occupancy rate of 80% or more over the first 2 years of operation and that a new center will have an average monthly occupancy rate of not less than 80% at the end of the second year.

**Note:** The documents and information required by the Department to make a determination of need should be sent to the Bureau of Permanence and Out-of-Home Care, P.O. Box 8916, Madison, WI 53708.

(6) **PUBLICATION OF NOTICE — PARTY STATUS.** (a) Upon receipt of the documents and information listed in sub. (5), the department shall publish a class 2 notice under ch. 985, Stats., in the official state newspaper designated under s. 985.04, Stats., and in a newspaper likely to give notice in the area of the proposed center. The notice shall include a statement that the department has received an application for a certificate of need to operate a new residential care center or to expand the bed capacity of an existing residential care center. The notice shall also include the number of additional beds, the geographic area to be served, the types of young people to be accepted for care, the services to be provided and program objectives.

(b) The notice shall invite the submission of written comments, factual data and reasons why the application should be granted or denied from any person within 30 days after the publication of the notice. The notice shall advise persons submitting written comments to indicate their interest in the application and whether the individual commentator wants to be considered for party status in any later proceedings.

(7) **NEED DETERMINATION.** (a) *Evaluation procedures.* 1. The department shall review the applicant's documents and information for completeness and may ask the applicant for additional materials or information that the department considers necessary for evaluation purposes.

2. Except as provided under subd. 3., the administrator of the department's division of children and family services or his or her designee shall make the need determination decision based on the following criteria:

- a. The compatibility of the applicant's proposed plan of operation or expansion with the stated treatment goals for the program.
- b. The validity of the research methodology used to document need for the proposed program.
- c. The congruence of the conclusions reached in the applicant's needs research with department data on current county placement needs and available beds in existing residential care centers for children and youth providing similar services.
- d. The correctness of the applicant's contention that the proposed center is more appropriate than less restrictive care arrangements for children.
- e. The applicant's documentation supporting the argument that existing Wisconsin residential care centers for children and youth are not adequate to meet the needs of Wisconsin children who require the type or types of care and treatment services the applicant proposes to provide.
- f. The applicant's documentation of the probability that the center, if expanded, will attain and maintain an average monthly occupancy rate of at least 80% for the first 2 years of operation or, if new, will attain an average monthly occupancy rate of at least 80% at the end of the second year of operation.

3. An application for expansion of an existing residential care center for children and youth by 3 or fewer additional beds shall be presumed to meet the criterion under subd. 2. d. unless at least one of the following is true:

a. The center submitted another application for expansion of bed capacity in the previous 2 years and that application was approved.

b. There is clear and convincing evidence that the criteria under subd. 2. have not been met.

(b) *Notice of determination.* 1. Within 90 calendar days after the date on which all required documents and information were received from an applicant, the department shall send written notice of its determination of need to the applicant and to anyone who commented under sub. (6) (b) on the application. The notice shall state the specific reason for the determination.

2. If the department determines that there is need for additional beds, the notice shall be accompanied by the department's certification that a need exists for the proposed new placement resources which entitles the person to apply for a license to operate a new center or to apply for an amended license that will permit the addition of beds at an existing center.

3. The duration of the approval under subd. 2. shall be limited to 18 months from the date that it is issued, except that the department may grant one 6-month extension if the approved applicant has a good reason for the delay in becoming operational and documents to the satisfaction of the department that it will be operational within that 6-month period. Any request for extension shall be filed before expiration of the initial 18-month period. If the proposed center is not operational during that 18-month time period, or the extended period, the need determination shall be considered invalid and the approval shall be cancelled. In this subdivision, "operational" means in regard to a new center that the center has been licensed under s. DCF 52.62 and that all approved beds meet requirements for operation, and in regard to expansion of an existing center that all additional beds meet requirements for operation and the center is licensed under s. DCF 52.62 to operate with the additional beds. An acceptable reason for an extension under this subdivision shall include unforeseen delay in obtaining adequate financing approval, in staffing or in construction.

(c) *Appeal.* 1. An applicant or a party adversely affected by a determination issued under par. (b) 1. may request an administrative hearing under s. 227.42, Stats., from the department of administration's division of hearings and appeals by submitting a written request for hearing to that office so that it arrives there within 30 days after the date of the notice under par. (b).

2. The standard of review for the hearing shall be whether the record contains the quantity and quality of evidence that a reasonable person could accept as adequate to support the decision.

**Note:** A request for a hearing may be mailed to Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875 or faxed to (608) 264-9885. A copy of the request should be sent to Department of Children and Families, Division of Safety and Permanence, P.O. Box 8916, Madison, WI 53703-8916.

**History:** Cr. Register, February, 2000, No. 530, eff. 9-1-00; corrections in (4) and (7) (b) 3. made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635; EmR1414; emerg. am. (7) (a) 2. c. to e., eff. 8-1-14; CR 14-054: am. (1), (7) (a) 2. c. to e. Register April 2015 No. 712, eff. 5-1-15.

**DCF 52.62 Licensing administration. (1) GENERAL CONDITIONS FOR APPROVAL OF LICENSE.** An applicant for a license under this chapter shall complete all application forms truthfully and accurately and pay all fees and forfeitures due and owing prior to receiving a license. The department shall issue a residential care center license to an applicant within 60 days based upon receipt and department approval of a properly completed application and a department investigation and determination that the applicant is fit and qualified. Continued licensure requires a licensee to remain fit and qualified. In determining whether an applicant is fit and qualified, the department shall consider any history of civil or criminal violation of statutes or regulations of the United States, this state, or any other state or other offenses

substantially related to the care of children or adults by the applicant, owner, manager, representative, employee, center resident, or other individual directly or indirectly participating in the operation of the residential care center. This includes substantiated findings by a county social services or human services department of child abuse or neglect under s. 48.981, Stats., or substantiated reports of abuse of residents or patients under ch. 50, Stats., whether or not it results in criminal charges or convictions.

(2) **INITIAL LICENSE APPLICATION.** (a) A person wanting a license to operate a residential care center for children and youth shall apply on a form provided by the department and shall include all information requested on the form and all related materials and information required under par. (c), along with the license fee required under s. 48.615, Stats. A complete application includes completion of all information requested on the application form and all related materials and information required under par. (c) and the license fee.

**Note:** An application form may be obtained by writing or telephoning any field office listed in Appendix D. The completed form and required related materials and information and the license fee should be returned to the field office responsible for the county where the center is located.

(b) A complete application for a license shall be submitted to the department at least 60 days before the date proposed for the center to begin operating.

(c) An applicant for a license shall submit all of the following information and materials along with the completed application form:

1. A copy of the certificate of need under s. DCF 52.61 (7) (b).  
2. A statement signed by the applicant agreeing to comply with this chapter.

3. A notarized statement signed by the applicant on a background information disclosure form, provided by the department concerning any specified criminal conviction or pending charge.

**Note:** DCF-F-2978-E, *Background Information Disclosure* is available in the forms section of the department's website at <http://dcf.wisconsin.org> or by writing or telephoning any field office listed in Appendix D. The background information disclosure form does not need to be notarized.

4. Diagrammatic floor plans of all center buildings showing all of the following:

a. The location of all exits.  
b. All rooms to be used by residents with their dimensions and use.  
c. The number of residents and the age range of residents proposed for each living area.  
d. Rooms that are exclusively for male or female residents.  
e. For bathrooms, the number of toilets, tubs or showers and washbasins.

5. A diagram of the outdoor area of the center showing dimensions and all buildings, and a map of the surrounding area showing the location of the center.

6. The names, addresses and telephone numbers of 3 persons, other than relatives, who personally know the applicant.

7. A completed department-provided checklist indicating that the applicant complies with all requirements for initial licensure.

8. A description of other licenses or certifications currently held or expected to be obtained by the applicant, or business enterprises that will be a part of the operation of the residential care center or operating on the grounds of the residential care center.

9. For an applicant operating any other type of licensed children's program or other human services program on the grounds of the center, a statement that describes how each program will remain separate and distinct.

10. A description of the organizational structure of the center, showing the chain of command and identifying staff members, with their titles and work schedules, who will be on the premises in charge of the center for all hours of operation. This document shall be signed by the applicant.

11. A copy of the report of an inspection by a local fire department or other fire safety inspection acceptable to the department showing approval of the facility for fire safety.

12. A copy of the approval of the center's electrical system by an inspector certified under ch. SPS 316.

13. If the center gets its water from a private well, a letter indicating that the water is safe to drink according to tests made on water from the private well, as required under s. DCF 52.56 (1).

14. A copy of the Wisconsin department of safety and professional services building safety inspection approval or, if new construction, the Wisconsin department of safety and professional services building construction approval.

15. A statement signed by the applicant specifying the geographical area to be served by the center, such as counties or states covered.

16. A financial statement with evidence of availability of funds to carry the center through the first year of operation.

17. A proposed per client rate that each residential care center program will charge for services provided in the current year and a proposed budget with the same cost categories as the department's cost and service report under s. DCF 52.66 (1) (a).

(d) Within 30 working days after receiving a complete application, the department's licensing representative shall inspect the center to determine the applicant's ability to comply with this chapter.

(e) If the department, following its review of a license application and the results of the inspection under par. (d), finds that the applicant meets the requirements for a license established under this chapter and has paid the applicable fee referred to in s. 48.68 (1), Stats., the department shall issue a probationary license for 6 months in accordance with s. 48.69, Stats. The probationary license shall be issued after completion of the inspection under par. (d) and may be renewed for one 6-month period. If the center remains in satisfactory compliance with this chapter during the probationary license period, the department shall issue a regular license. The center shall post the license in a conspicuous place in the center where the public can see it.

(f) If the department, following its review of a license application and the results of the inspection under par. (d), finds that the applicant is not in compliance with this chapter, the department shall specify in writing to the applicant each area of noncompliance. The department's written response shall be sent to the applicant after the date of the inspection under par. (d). The applicant shall have an opportunity to come into compliance. When the applicant believes that all areas of noncompliance have been corrected, the applicant may request a re-inspection by the department's licensing representative. The department's licensing representative shall complete a new inspection of the center within 20 working days after being notified by the applicant that the center is ready to be re-inspected.

**(3) LICENSE CONTINUATION.** (a) *Non-expiring license.* A regular license shall be valid indefinitely, unless suspended or revoked by the department.

(b) *License continuation application.* 1. At least 60 days before the beginning date of every 2 year period of licensure, the department shall send a license continuation application to the licensee along with a notice of the license continuation fee required under s. 48.615, Stats.

2. At least 30 days before the continuation date of the license, the licensee shall submit to the department an application for continuance of the license in the form and containing the information that the department requires along with the license application fee required under s. 48.615, Stats., and any other fee owed under s. 48.685 (8), Stats., and any forfeiture under s. 48.715 (3) (a), Stats., or penalty under s. 48.76, Stats.

(c) *License continuation approval.* If the department establishes that the minimum requirements for a license under s. 48.67,

Stats., are met, the application is approved, the applicable fees referred to in ss. 48.68 (1) and 48.685 (8), Stats., and any forfeiture under s. 48.715 (3) (a), Stats., or penalty under s. 48.76, Stats., are paid, the department shall continue the license for an additional 2-year period.

**(4) AMENDMENT TO LICENSE.** (a) Before a licensee may make any change affecting a provision of its license, the licensee shall submit a written request to the department for approval of that change and shall receive approval from the department in the form of an amended license.

(b) Any of the following changes require amendment of the license:

1. A change in any of the licensee's powers and duties under s. 48.61, Stats., that are covered by the license.

2. A change in the maximum number of residents or in the sex or age range of residents which the center will serve.

3. A change in the type of resident population served such as emotionally disturbed, sexual offender, developmentally disabled, alcohol or drug dependent or delinquent.

4. A change in the name of the center.

5. The licensee's name changes.

6. Any other change as allowed under Wisconsin statutes.

(c) A licensee seeking to expand operations to increase the number of residents served under the existing license shall have been operating in substantial compliance with this chapter.

(d) A request to amend a license to serve a resident population that is 18 years of age and over, but under 21 years of age, and is transitioning to independence shall be on a form prescribed by the department.

**Note:** Form DCF-F-5081-E, *Amendment Request to Extend Care to Residents 18 Years of Age or Over, But Under 21 Years of Age*, is available in the forms section of the department's website, <http://dcf.wisconsin.gov>, or from a department field office. See Appendix D for the address of the field office for your area.

**(5) LICENSE DENIAL OR REVOCATION.** (a) The department may refuse to grant a license or may revoke a license if the applicant or licensee has violated any provision of this chapter or ch. 48 or 938, Stats., or fails to meet the minimum requirements of this chapter.

(b) The department may refuse to grant a license or may revoke a license if an applicant or licensee or a proposed or current employee, student intern or volunteer is any of the following:

1. A person who is the subject of a pending criminal charge for an action that directly relates to the care of children or activities of the center.

2. A person who has been convicted of a felony or misdemeanor or other offense which is substantially related to the care of children or activities of the center.

3. A person who has been determined to have abused or neglected a child pursuant to s. 48.981, Stats., or who has been determined to have committed an offense which is substantially related to the care of children or activities of the center.

4. A person against whom a finding of abuse, neglect, or misappropriation of property pursuant to ch. DHS 13 has been entered on the Wisconsin caregiver registry maintained by the department of health services.

5. A person who has had a department-issued license revoked within the last 5 years.

6. A person who has a recent history of psychological or emotional disorder which suggests an inability to adequately handle the administrative affairs of the center or, for anyone having contact with the residents, presents a risk that the residents may be harmed or their well-being neglected. The department may require the person to submit to a psychological examination.

7. A person who is the subject of a court finding that the person has abandoned his or her child, has inflicted sexual or physical abuse on a child, or has neglected or refused, for reasons other than poverty, to provide necessary care, food, clothing, medical or den-

tal care, or shelter for his or her child or ward or a child in his or her care so as to seriously endanger the physical health of the child.

8. A person who has violated any provision of this chapter or ch. 48, Stats., or fails to meet the minimum requirements of this chapter.

9. A person who has made false statements on the background information disclosure form completed under the requirements of ch. DCF 12.

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

**(6) NOTICE TO DENY OR REVOKE A LICENSE.** (a) If the department decides under sub. (5) to not grant a license or to revoke a license, the department shall notify the applicant or licensee in writing of its decision and the reasons for it. Revocation of a license shall take effect either immediately upon notification or 30 days after the date of the notice unless the decision is appealed under sub. (8); whether the revocation shall take effect immediately upon notification or 30 days after the date of the notice shall be determined in accordance with the criteria found in s. 48.715 (4m) (a) and (b), Stats.

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

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

**(7) SUMMARY SUSPENSION OF A LICENSE.** (a) Under the authority of s. 227.51 (3), Stats., the department shall summarily suspend a license and thereby close a residential care center when the department finds that this action is required to protect the health, safety, or welfare of children in care. A finding that summary suspension of a license is required to protect the health, safety or welfare of children in care may be based on, but is not limited to, any of the following:

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

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

3. The licensee, an employee, a volunteer, or any other person in regular contact with the children in care has been convicted of a felony, misdemeanor, or other offense which is substantially related to the care of children or activities of the center or has a pending charge which is substantially related to the care of children or activities of the center.

4. The licensee, an employee, a volunteer, or any other person in regular contact with the children in care is the subject of a current investigation for alleged child abuse or neglect pursuant to s. 48.981, Stats., or has been determined to have abused or neglected a child pursuant to s. 48.981, Stats.

5. The licensee or a person under the supervision of the licensee has committed an action or has created a condition relating to the operation or maintenance of the center that directly

threatens the health, safety, or welfare of any child under the care of the licensee.

(b) If the department's licensing representative determines that the safety of the residents requires their immediate relocation, the department shall order the licensee, orally and in writing, to find suitable temporary housing for the residents until arranging for their permanent relocation. The department shall further order the licensee, orally and in writing, to notify, for each resident, the placing person or agency and parent or guardian within 24 hours after temporary housing arrangements for the resident have been made.

(c) An order summarily suspending a license and thereby closing a center may be a verbal order by a licensing representative of the department. Within 72 hours after the order takes effect, the department shall either permit the reopening of the center or proceed under sub. (5) to revoke the center's license. A preliminary hearing shall be conducted by the department of administration's division of hearings and appeals within 10 working days after the date of the initial order to close the center on the issue of whether the license shall remain suspended during revocation proceedings.

**(8) APPEAL OF DECISION TO DENY OR REVOKE A LICENSE.** (a) Any person aggrieved by the department's decision to deny a license or to revoke a license may request a hearing on the decision under s. 227.42, Stats.

(b) The request for a hearing shall be in writing and shall be filed with the department of administration's division of hearings and appeals within 10 days after the date on the notice of the department's refusal or failure to issue, renew, or continue a license or the department's action taken under s. 48.715, Stats.

**Note:** A request for a hearing may be mailed to Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875 or faxed to (608) 264-9885. A copy of the request should be sent to the appropriate field office listed in Appendix D.

**History:** Cr. Register, February, 2000, No. 530, eff. 9-1-00; corrections in (2) (c) 1., 3., 13., (5) (b) 4. and 9. made under s. 13.92 (4) (b) 6. and 7., Stats., Register November 2008 No. 635; EmR1106; emerg. cr. (2) (c) 17., eff. 9-16-11; CR 11-026; cr. (2) (c) 17., correction in (2) (c) 12., 14. made under s. 13.92 (4) (b) 6., 7., Stats., Register December 2011 No. 672, eff. 1-1-12; EmR1414; am. (4) (b) 4., r. and recr. (4) (b) 5., cr. (4) (d), eff. 8-1-14; CR 14-054; am. (1), (4) (b) 4., r. and recr. (4) (b) 5., cr. (4) (d) Register April 2015 No. 712, eff. 5-1-15; EmR1633; emerg. am. (8) (b), eff. 11-18-16; CR 16-051; am. (8) (b) Register July 2017 No. 739, eff. 8-1-17; correction in (2) (c) 3. made under s. 13.92 (4) (b) 6., Stats., Register March 2018 No. 747; correction in (2) (c) 3., (5) (b) 9. made under s. 13.92 (4) (b) 7., Stats., Register March 2018 No. 747.

### DCF 52.63 Inspections and complaint investigations.

**(1) INSPECTION.** Pursuant to s. 48.73, Stats., the department may visit and inspect any residential care center for children and youth at any time. A department licensing representative shall have unrestricted access to the premises identified in the license, including access to resident records and any other materials, and access to residents and other individuals having information on compliance by the center with this chapter.

**(2) COMPLAINT INVESTIGATION.** Under s. 48.745, Stats., any person having a complaint about a licensed center or a center operating without a license may submit that complaint to the department by telephone, letter or personal interview. A licensing representative of the department shall investigate each complaint. The department shall send a written report of the findings of that investigation to the complainant.

**Note:** A complaint should be sent, phoned in or delivered to the appropriate Department of Children and Families field office listed in Appendix D.

**(3) ENFORCEMENT ACTION.** The department may order any sanction or impose any penalty on a licensee in accordance with s. 48.685, 48.715 or 48.76, Stats.

**History:** Cr. Register, February, 2000, No. 530, eff. 9-1-00.

## Subchapter IX — Rate Regulation

**DCF 52.64 Rate determination.** (1) The department shall determine the maximum per client rate that each residential care center program may charge for costs associated with room,

board, administration, service provision, and oversight of residents in the residential care center program based on the following:

(a) A maximum per client rate determined by the department that no residential care center may exceed.

(b) A per client rate that the department determines is appropriate for each residential care center program based on the reasonable and necessary costs of the services provided by that residential care center.

**(2)** A residential care center shall charge all Wisconsin public purchasers the same rate for the same services.

**Note:** A residential care center may have multiple programs within the center and may charge a different rate for each program.

**History:** EmR1106: emerg. cr. eff. 9-16-11; CR 11-026: cr. Register December 2011 No. 672, eff. 1-1-12; CR 14-054: am. (1) (intro.) Register April 2015 No. 712, eff. 5-1-15.

**DCF 52.65 Allowable costs.** In determining rates under this subchapter, the department may consider costs incurred for any purpose that is allowable under all of the following:

**(1)** Applicable federal regulations, including 2 CFR Part 225, 2 CFR Part 230, 45 CFR Part 74, 45 CFR Part 92, and 48 CFR Part 31, except as provided in sub. (2).

**Note:** Beginning December 26, 2014, the applicable federal regulations are 48 CFR Part 31, 2 CFR Part 200, and 45 CFR Part 75.

**(2)** Reserves or profit as allowed under the following:

(a) For nonprofit corporations, reserves allowed under s. 49.34 (5m) (b) 2., Stats.

**Note:** Effective January 1, 2018, the allowable retained surplus for nonprofit corporations is provided in s. 49.34 (5m) (b) 1., Stats.

(b) For proprietary residential care centers, profit allowed on an annual basis is the smaller amount determined under the following 2 methods of calculating profit:

1. The equity method is the sum of 7.5 percent of allowable operating costs plus 15 percent of average net equity for the year. In this subdivision, "average net equity" means the average cost of equipment, buildings, land, and fixed equipment minus the average accumulated depreciation and average long term liabilities for the year.

2. The expenses method is 10 percent of allowable operating costs for the year.

**Note:** Further explanation is available in the department's *Allowable Cost Policy Manual*, which is available in the Partner Resources/Grants and Contract Administration section of the department's website at <http://dcf.wisconsin.gov>.

**History:** EmR1106: emerg. cr. eff. 9-16-11; CR 11-026: cr. Register December 2011 No. 672, eff. 1-1-12.

**DCF 52.66 Rate methodology. (1) COST AND SERVICE INFORMATION.** Each year no later than July 1, a licensee shall submit the following information to the department:

(a) A cost and service report in which the licensee reports the residential care center's costs, types of services provided, and number of children served in the previous year. The report shall be submitted on a department-prescribed form.

**Note:** The cost and service report form is available at <https://dcf.wisconsin.gov/ratereg>.

(b) The residential care center's most recent audit report under s. DCF 52.11 (6) (a).

**(2) MAXIMUM ALLOWABLE RATE.** Each year no later than September 1, the department shall notify licensees of the per client rate that no residential care center may exceed for services provided in the following calendar year.

**(3) PROPOSED RATES.** (a) Each year no later than October 1, a licensee shall submit to the department a proposed rate for the following calendar year for each residential care center program that the licensee operates. The licensee shall submit the proposed rate on a department-prescribed form.

(b) A licensee may request an exception to the department's maximum rate under sub. (2) if the licensee provides a specialized service or specialized programming to a specific population of children. The exception request shall explain the benefits of the

service or programming and why the licensee cannot provide the service or programming within the maximum rate. The exception request shall be made on the rate request form.

**Note:** The rate request form is available at <https://dcf.wisconsin.gov/ratereg>.

**(4) REVIEW OF A PROPOSED RATE.** In reviewing a proposed rate submitted by a licensee under sub. (3), the department shall consider all of the following:

(a) Whether the proposed rate exceeds the maximum rate determined by the department under sub. (2).

(b) The residential care center's most recent cost and service report under sub. (1) (a).

(c) The residential care center's most recent audit report under sub. (1) (b).

(d) Whether the residential care center's reported costs are within a range of similar costs reported by other residential care centers for similar items and services.

(e) The residential care center's per client rate in previous years.

(f) Changes in the consumer price index for all urban consumers, U.S. city average, as determined by the U.S. department of labor, for the 12 months ending on June 30 of the year in which the proposed rate is submitted.

(g) Changes in the consumer price index for all urban consumers, U.S. city average, for the medical care group, as determined by the U.S. department of labor, for the 12 months ending on June 30 of the year in which the proposed rate is submitted.

(h) Changes in the allowable costs of residential care centers based on current actual cost data or documented projections of costs.

(i) Changes in program utilization that affect the per client rate.

(j) Changes in the department's expectations relating to service delivery.

(k) Changes in service delivery proposed by a residential care center and agreed to by the department.

(L) The loss of any source of revenue that had been used to pay expenses, resulting in a lower per client rate for services.

(m) Whether the residential care center is accredited by a national accrediting body that has developed child welfare standards.

(n) Changes in any state or federal laws, rules, or regulations that result in any change in the cost of providing services, including any changes in the minimum wage, as defined in s. 49.141 (1) (g), Stats.

(o) Competitive factors.

(p) The availability of funding to pay for the services to be provided under the proposed rate.

**(5) RATE APPROVAL.** (a) Each year no later than November 1, the department shall notify each licensee that submitted all information as required under subs. (1) and (3) of the maximum approved per client rate for the residential care center's program for the following year.

**Note:** The notification will be sent to the electronic mail address that the licensee has provided to the department.

(b) If the department determines that a proposed rate submitted under sub. (3) is appropriate based on the factors in sub. (4), the department shall approve the proposed rate.

(c) If the department determines that a proposed rate submitted under sub. (3) is not appropriate based on the factors in sub. (4), the department shall negotiate with a licensee to determine an agreed to rate. The department's approved rate under par. (a) following negotiations shall be based on the factors in sub. (4) and additional relevant information presented during negotiations.

(d) The department may grant a licensee's request for an exception to the department's maximum rate under sub. (3) (b) if the department determines that the licensee has shown by clear and convincing evidence that the licensee's costs are reasonable

and necessary given the costs and benefits of the licensee's specialized service or specialized programming.

**(6) NONCOMPLIANCE.** If a licensee does not submit all information as required under subs. (1) and (3), the department may impose sanctions and penalties under s. DCF 52.62 (5) and s. 48.715, Stats., including license revocation.

**History:** EmR1106: emerg. cr., eff. 9-16-11; CR 11-026: cr. Register December 2011 No. 672, eff. 1-1-12.

**DCF 52.67 Rate resolution. (1) MEDIATION.** (a) If a licensee has negotiated with the department under s. DCF 52.66 (5) (c) and does not agree to the department's approved rate under s. DCF 52.66 (5) (a), the licensee may request that the department and the licensee engage in mediation. A licensee shall send a request for mediation within 5 business days after the date of the notice in s. DCF 52.66 (5) (a). The request shall be sent by electronic mail to an address specified by the department.

**Note:** Requests for mediation should be sent to [DCFCWLRateReg@wisconsin.gov](mailto:DCFCWLRateReg@wisconsin.gov).

(b) The department shall notify the licensee of the date of the mediation no later than 10 working days after receiving the request under par. (a).

(c) The issues discussed in the mediation shall be limited to the factors in s. DCF 52.66 (4).

**(2) ORDER A RATE.** If after mediation a rate is not agreed to, the department shall order a rate after considering the factors in s. DCF 52.66 (4) and relevant information presented during negotiation and mediation.

**(3) CONTESTED RATE.** (a) A licensee may appeal the rate ordered by the department under sub. (2) as a contested case under ch. 227, Stats. A request for hearing may be submitted to the division of hearing and appeals within 30 days after the date of the order.

**Note:** Requests for hearing may be sent to the Division of Hearings and Appeals, PO Box 7875, Madison, WI 53707.

(b) The basis for a request for hearing shall be limited to the factors in s. DCF 52.66 (4).

(c) The division of hearings and appeals shall notify the parties in writing at least 10 days before the hearing of the date, time, and location of the hearing and the procedures to be followed.

**History:** EmR1106: emerg. cr., eff. 9-16-11; CR 11-026: cr. Register December 2011 No. 672, eff. 1-1-12.

**DCF 52.68 Extraordinary payments. (1)** A licensee may request that a Wisconsin public purchaser pay an extraordinary payment in addition to the rate established under ss. DCF 52.64 to 52.67 for a specific child in care.

**(2)** A licensee may request and a Wisconsin public purchaser may approve a child-specific extraordinary payment if all of the following conditions are met:

(a) The child has service needs that are not accounted for in the maximum per client rate for the residential care center program as determined under s. DCF 52.66 (5) or 52.67, as applicable.

(b) The child's service needs are not paid for by another source.

(c) The extraordinary payment will be used to cover expenses that are an allowable cost under s. DCF 52.65.

**(3)** A licensee shall submit a request for an extraordinary payment to the Wisconsin public purchaser on a form prescribed by the department. The request shall be dated and signed and include all of the following:

(a) Name of the residential care center program, licensee, and any authorized representative.

(b) Name of the child for whom an extraordinary payment is being requested.

(c) Amount of the extraordinary payment requested and time period that the extraordinary payment would cover.

(d) A rationale for the request that includes all of the following:

1. An explanation of the child's service needs.

2. The amount of money that the residential care center program is currently spending to address the child's needs.

3. Any services that are not being provided due to economic constraints.

4. Documentation of the need for additional services by a person with expertise in the child's type of needs.

5. How additional dollars would be allocated and the means by which additional services would be provided.

**Note:** A extraordinary payment request form is available at <https://dcf.wisconsin.gov/ratereg>.

**(4)** The Wisconsin public purchaser shall approve or deny the request or recommend an alternative to meet the child's needs and shall notify the licensee of the determination within 10 working days after receipt of the request form. The Wisconsin public purchaser shall send a copy of the licensee's request, the signed and dated determination, and the justification for the determination to the department within 20 days of the approval or non-approval of the request.

**Note:** Required information should be sent to Department of Children and Families, Division of Safety and Permanence, Extraordinary Payments Panel, 201 E. Washington Avenue, P.O. Box 8916, Madison WI 53708-8916.

**(5)** A licensee may not appeal the denial of a request for an extraordinary payment under this section.

**History:** EmR1106: emerg. cr., eff. 9-16-11; CR 11-026: cr. Register December 2011 No. 672, eff. 1-1-12.

**DCF 52.69 Advisory committee.** The department shall convene the rate regulation advisory committee under s. 49.343 (5), Stats., at regular intervals to consult with the department on items in s. 49.343 (5) (a) to (c), Stats.

**History:** EmR1106: emerg. cr., eff. 9-16-11; CR 11-026: cr. Register December 2011 No. 672, eff. 1-1-12.