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# Wisconsin Legislative Council

## ACT MEMO

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### 2023 Wisconsin Act 249 [2023 Senate Bill 462]

### Crisis Urgent Care and Observation Facilities and Crisis Hostels

2023 Wisconsin Act 249 establishes and regulates crisis urgent care and observation facilities and crisis hostels.

## CRISIS URGENT CARE AND OBSERVATION FACILITIES

A “crisis urgent care and observation facility” (CUCOF) is defined in the act as a treatment facility that admits an individual to prevent, deescalate, or treat the individual’s mental health or substance use disorder and includes the necessary structure and staff to support the individual’s needs relating to the mental health or substance use disorder.

### Certification

The Department of Health Services (DHS) must establish a certification process for CUCOFs and a grant program to award grants to develop and support CUCOFs. No person may operate a CUCOF without a certification from DHS. DHS may limit the number of certifications it grants to operate CUCOFs.

Subject to Joint Committee on Finance (JCF) approval, DHS may grant a certification to a CUCOF that specifies in an application the level of care the facility can provide to patients and demonstrates in the application its ability to do all of the following:

- Accept referrals for crisis services for adults and, if applicable, for youth, including both involuntary patients, and voluntary patients for services arriving as walk-ins or brought by law enforcement, emergency medical responders or emergency medical services practitioners, or county crisis personnel.
- Abstain from having a requirement for medical clearance before an admission assessment.
- Provide assessments for physical health, substance use disorder, and mental health.
- Provide screening for suicide and violence risk.
- Provide medication management and therapeutic counseling.
- Provide coordination of services for basic needs.
- Provide for the safety and security of both the staff and the patients.
- Have adequate staffing 24 hours a day, seven days a week, including through use of telehealth with a multidisciplinary team that includes, as needed, psychiatrists or psychiatric nurse practitioners, physician assistants, nurses, licensed clinicians capable of completing assessments, peers with lived experience, and other appropriate staff.

- Allow for voluntary and involuntary treatment of individuals in crisis as a means to avoid unnecessary placement of those individuals in hospital inpatient beds and allow for an effective conversion to voluntary stabilization when warranted in the same setting.
- Contribute, from at least one nonstate, federal, or third-party revenue source, an amount, as determined by DHS, in addition to any grant awarded by DHS under the act.

Before DHS may grant certification to a CUCOF, DHS must submit the proposal for certification to JCF for approval. If the JCF co-chairpersons do not notify DHS within 14 working days after the date of the submittal that the committee has scheduled a meeting for the purpose of reviewing the proposal, DHS may grant certification of that facility as described in the proposal. If, within 14 working days after the date of the submittal, the JCF co-chairpersons notify DHS that the committee has scheduled a meeting for the purpose of reviewing the proposal, DHS may grant certification of that facility only upon approval by the committee. When submitting a proposal regarding certification of a facility, the act specifies certain information DHS must provide to JCF about the proposed facility.

The act requires DHS to consider certain geography when certifying a CUCOF. Specifically, DHS must, using DHS's division of the state into regions by county, include statewide geographic consideration to evaluate applications for certification to ensure geographic diversity among the regions in the location of a CUCOF. DHS must also take into account the geography of a hospital facility certified as a CUCOF when considering certification applications for another CUCOF.

Certain facilities that provide crisis intervention services, before enactment of the act, may continue to provide those services without obtaining CUCOF certification. Specifically, notwithstanding the CUCOF certification requirements, any facility that before March 31, 2024, provides crisis intervention services that on or after March 31, 2024, would otherwise require certification as a CUCOF may continue to provide these services without obtaining certification from DHS under the act.

## **Admission**

A CUCOF must accept an adult for emergency detention and may accept a youth for emergency detention. If the facility does not have capacity to accept an adult for purposes of emergency detention or if the facility does not accept a youth for purposes of emergency detention, that individual must be transported to another appropriate facility.

Prior to admission to a CUCOF for emergency detention, a mental health professional must perform a county crisis assessment for emergency detention. The medical clearance requirement does not apply to CUCOF admissions for emergency detention.

A CUCOF may accept individuals for any of the following services:

- Voluntary stabilization.
- Observation and treatment, including for assessments for mental health or substance use disorder.
- Screening for suicide and violence risk.
- Medication management and therapeutic counseling.

DHS must encourage each CUCOF to operate with the intent to admit individuals for no longer than five days, except in exceptional circumstances.

## **Coordination**

The act requires a CUCOF to coordinate to the fullest extent possible with any facility established or operated with funding received from settlement proceeds from certain opiate litigation, as well as with other facilities that provide services similar to those a CUCOF provides.

## **Medical Assistance Approval**

Medical Assistance is a health care services program for low-income individuals and aged, blind, or disabled individuals. It is funded jointly by the federal government and the states. Generally, the act requires DHS to request federal approval to reimburse a CUCOF for crisis intervention services and, if approved, to reimburse a CUCOF.

Specifically, DHS must, in accordance with all procedures on legislative authorization and oversight of requests to the federal government, request a waiver under federal law or submit a Medical Assistance state plan amendment to the federal Department of Health and Human Services to obtain any necessary federal approval required to provide reimbursement to a CUCOF for crisis intervention services. If DHS determines submission of a state plan amendment is appropriate, DHS must, notwithstanding whether the expected fiscal effect of the amendment is \$7.5 million or more, submit the amendment to JCF for review in accordance with the procedures under state law on submission of state plan amendments and provider payments.

If federal approval is granted or no federal approval is required, DHS must reimburse certified providers for Medical Assistance on behalf of recipients for crisis intervention services, including services provided by a CUCOF. If federal approval is necessary but is not granted, DHS may not provide reimbursement for a crisis intervention service provided by a CUCOF.

## **Reports**

No later than June 30 of each year, beginning by June 30, 2025, DHS must submit to JCF and to the chief clerk of each house of the Legislature, for distribution to the appropriate standing committees, a report regarding CUCOFs. The act specifies that the report must include certain information on CUCOF operations.

## **Administrative Rules**

DHS must promulgate rules to implement the CUCOF certification and regulation, including rules to establish various CUCOF operations, policies, and procedures listed in the act.

## **Miscellaneous**

The act specifies that DHS may or must perform various actions. DHS may make announced and unannounced inspections and complaint investigations of a CUCOF as it deems necessary, at reasonable times and in a reasonable manner. Additionally, DHS must promote certification and encourage any licensed hospital that provides services consistent with CUCOF certification to apply for certification. Finally, DHS must approve for purposes of facilities for emergency detention law any facility certified as a CUCOF facility.

The act also specifies how CUCOF regulation would interact with certain state law on uniform licensure, hospital regulation, and the moratorium on construction of hospital beds.

## CRISIS HOSTELS

A “crisis hostel” is defined in the act as a mental health stabilization program with a maximum of 15 beds that provides crisis stabilization services to an adult individual to prevent or deescalate the individual’s mental health crisis and avoid admission of the individual to a more restrictive setting. “Crisis stabilization services” are optional emergency mental health services that provide short-term, intensive, community-based services to avoid the need for inpatient hospitalization.

Generally, no person may operate a crisis hostel without a certification from DHS. However, under certain circumstances a county providing crisis stabilization services before the act’s enactment may continue to provide those services without obtaining crisis hostel certification. More specifically, if a county, by March 31, 2024, establishes a crisis hostel and operates the crisis hostel pursuant only to certification as an emergency mental health services program that satisfies certain criteria, then the county may continue to provide services without obtaining additional residential licensure or receiving a certification as a crisis hostel.

The act specifies certain aspects of crisis hostel certification. DHS must establish application fees and biennial certification fees. DHS may not limit the number of certifications it issues to operate a crisis hostel.

A crisis hostel may admit an individual 18 years of age or older to receive crisis stabilization services. Crisis stabilization services may only be provided at a crisis hostel on a voluntary basis to individuals who are 18 years of age or older. Crisis hostel staff may not admit an individual who is transported to the hostel involuntarily for emergency detention.

DHS must promulgate rules to implement the crisis hostels provisions of the act.

A crisis hostel is not subject to facility regulation under uniform licensure law for certain facilities.

**Effective date:** March 31, 2024

For a full history of the bill, visit the Legislature’s [bill history page](#).

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