



Date: September 3, 2014

DQA Memo 14-008

To: [Adult Day Care](#)
[Adult Family Homes](#)
[Community-Based Residential Facilities](#)
[Residential Care Apartment Complexes](#)

From: Alfred C. Johnson, Director
Bureau of Assisted Living

Via: Otis Woods, Administrator
Division of Quality Assurance

Facility Closure/Relocation Plans

In this memo the Division of Quality Assurance (DQA)/Bureau of Assisted Living (BAL) provides guidance to providers about the process to use for discharge planning and relocation assistance for residents/tenants in the event of a facility closure. This memo is to help educate providers on these issues, but it should not be used as a substitute for the Wisconsin Statutes and Administrative Code. Providers must follow the current and applicable Wisconsin Statutes and Administrative Code requirements when faced with these issues.

Required Notification of Relocation

The Department, the resident, the resident's legal representative (if any), and others as indicated by administrative rule or statute, must be provided with written notice whenever a resident will be discharged from a Community Based Residential Facility (CBRF), Adult Family Home (AFH), or Residential Care Apartment Complex (RCAC).

Adult Day Care (ADC) providers are encouraged to notify the BAL regional office in your area when a facility closure is anticipated. ADC providers may disregard the information that follows regarding relocation planning.

*The following are **some of** the state statutes and administrative rules that apply to discharge planning and relocation assistance for residents/tenants in the event of a facility closure for specific assisted living facility types:*

Adult Family Homes (AFH)

Wis. Admin. Code § DHS 88.08 Termination of placement:

A licensee may terminate a resident's placement only after giving the resident, the resident's guardian, if any, the resident's service coordinator, the placing agency, if any, and the designated representative, if any, 30-days written notice. The termination of a placement shall be consistent with the service agreement under s. [DHS 88.06 \(2\) \(c\) 7](#). The 30 day notice is not required for an emergency termination necessary to prevent harm to the resident or other household members.

Wis. Admin. Code § DHS 88.03(5) Changes to be Reported to the Licensing Agency:

A licensee shall report to the licensing agency within 7 days, unless otherwise specified, the following changes:

(a) A significant and ongoing change in the type or amount of services the licensee offers to provide if the change adversely affects any resident who needs the service.

Community Based Residential Facilities (CBRF)

Wis. Stat. § 50.03(14) (c) The facility shall:

1. Provide at least 30 days' written notice prior to relocation to each resident who is to be relocated, to the resident's guardian, if any, and to a member of the resident's family, if practicable, unless the resident requests that notice to the family be withheld.

8. At the time the facility notifies the department under subd. 7., submit to the department a preliminary plan that includes:

a. The proposed timetable for planning and implementation of relocations and the resources, policies and procedures that the facility will provide or arrange in order to plan and implement the relocations.

b. A list of the residents to be relocated and their current levels of care and a brief description of any special needs or conditions.

c. An indication of which residents have guardians and the names and addresses of the guardians.

d. A list of which residents have been protectively placed under ch. 55.

e. A list of the residents whom the facility believes to meet the requirements of s. [54.10 \(3\)](#).

Wis. Admin. Code § DHS 83.31(4)(c) Discharge or Transfer Initiated by CBRF:

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

1. A statement setting forth the reason and justification for discharge listed under par. (b).

2. A statement that the resident or the resident's legal representative may ask the department to review the involuntary discharge by sending a written request within 10 days of receipt of the discharge statement to the department's regional office with a copy to the CBRF. The notice shall state that the request must provide an explanation why the discharge should not take place.

3. The name, address and telephone number of the department's regional office director.

4. The name, address and telephone number of the regional office of the board on aging and long term care's ombudsman program. For residents with developmental disability or mental illness, the notice shall include the name, address and telephone number of the protection and advocacy agency designated under s. [51.62 \(2\) \(a\)](#), Stats.

Wis. Admin. Code § DHS 83.11 Facility Closing:

- (1) Any CBRF that intends to close shall notify the department in writing at least 30 days before closing and comply with the requirements under s. 50.03 (5m), Stats., and s. DHS 83.31.
- (3) The CBRF shall surrender the license to the department when the CBRF closes.

Residential Care Apartment Complexes (RCAC)

Wis. Admin. Code § DHS 89.54 Reporting of changes:

A certified residential care apartment complex operator shall report to the department any change which may affect its compliance with this chapter, including change in the residential care apartment complex ownership, administration, building or continued operation, 30 days prior to making the change. The department may require that the facility reapply for certification when any of these changes take place.

Wis. Admin. Code § DHS 89.44 Termination and Revocation:

- (1) A residential care apartment complex's registration terminates whenever any of the following occurs:
 - (b) The facility discontinues operation.
- (2) A residential care apartment complex shall immediately report to the department any change which would invalidate its registration under sub. (1).

Wis. Admin. Code § DHS 89.29(3)(c) Procedures for Termination:

- a. Except as provided under subd. 2., a residential care apartment complex shall provide 30 days advance notice of termination to the tenant and the tenant's designated representative, if any. If there is no designated representative, the facility shall notify the county department of social or human services under s. 46.21, 46.22 or 46.23, Stats.
- b. Notice of termination shall include the grounds for termination and information about how to file a grievance consistent with the termination and grievance policies and procedures contained in the service agreement.
- c. The 30-day notice period required for termination may include the period covered by a notice of nonpayment of fees and opportunity to pay any deficiency as required under par. (a) 7., provided that notice of termination is included with the notice of non-payment of fees.

Other Notifications

Facilities are encouraged to notify the Board on Aging and Long Term Care (BOALTC) Ombudsman program when a facility closure is anticipated. The Ombudsman can provide information, referrals, and consultation to help the residents, families, and facilities with the relocation process. To learn more about the Ombudsman program please go to the DHS website at: <http://www.dhs.wisconsin.gov/aging/ltcombud.htm>.

The Ombudsman program can assist in mitigating the disruption and uncertainty residents may experience during a facility closure. Refer to the following information regarding Relocation Syndrome: <http://longtermcare.wi.gov/docview.asp?docid=21549>

Although not required by state statute or administrative code, providers may have contractual obligations to provide notice of closure to funding agencies, such as Managed Care Organizations (MCOs), county human service departments, or the Department of Corrections.

When Resident Relocation Plans Are Required

Under Wisconsin law, facilities relocating five or more residents must file a Resident Relocation Plan with the Division of Long Term Care.

Whenever discharge of five or more residents from a Community Based Residential Facility (CBRF) or a Residential Care Apartment Complex (RCAC) is decided regardless of whether it's voluntary or involuntary in nature or who initiates the discharge, a relocation plan must be submitted for review and approved by the Division of Long Term Care (DLTC). A facility must not begin discharging any of its residents until the Division of Long Term Care has approved the facility's resident relocation plan.

The *Resident Relocation Manual* and contact information is available on the DHS website: http://www.dhs.wisconsin.gov/rl_DSL/Providers/relocation.htm.

State Statutes and Administrative Rules That Apply to CBRFs and RCACs

Wis. Stat. ch. 50, Uniform Licensure, applies to CBRFs and RCACs. If the facility intends to close and will relocate at least 5 residents or 5% of the residents, whichever is greater a relocation plan is required.

Wis. Stat. § 50.03(5m) Resident Removal:

a) Departmental authority. The department may remove any resident from any facility required to be licensed under this chapter when any of the following conditions exist:

5. The facility is closing, intends to close or is changing its type or level of services or means of reimbursement accepted and will relocate at least 5 residents or 5% of the residents, whichever is greater.

(c) Relocation. The department shall offer removal and relocation assistance to residents removed under this section, including information on available alternative placements. Residents shall be involved in planning the removal and shall choose among the available alternative placements, except that where an emergency situation makes prior resident involvement impossible the department may make a temporary placement until a final placement can be arranged. Residents may choose their final alternative placement and shall be given assistance in transferring to such place. No resident may be forced to remain in a temporary or permanent placement except pursuant under s. 55.06, 2003 stats. or an order under s. 55.12 for protective placement. Where the department makes or participates in making the relocation decision, consideration shall be given to proximity to residents' relatives and friends.

State Statutes and Administrative Rules That Apply to CBRFs

Wis. Stat. § 50.03(14)(c) Closing of a Facility: The Facility Shall:

6. Implement the individual relocation plan developed under subd. 5.

(e) Upon approval of, agreement to or imposition of a plan for relocation, the facility shall establish a date of closing or changing of the type or level of services or means of reimbursement and shall notify the department of the date. The date may not be earlier than 90 days from the date of approval, agreement or imposition if 5 to 50 residents will be relocated, or 120 days from the date of approval, agreement or imposition if more than 50 residents will be relocated.

Wis. Admin. Code § DHS 83.11 Facility Closing:

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

Conclusion

As described in this memo, when a licensee decides to close a facility, the department, the resident, the resident's legal representative, and others as specified by law must be provided with written notice at least 30 days in advance of closing, for all provider types.

Additionally, CBRFs and RCACs must submit a relocation plan if five or more residents, or 5% of residents, whichever is greater, will need to be relocated as a result of the facility closure.

Once the facility has discharged the last resident, send a final notice to the appropriate BAL Regional Office with the closure date and include the original license certificate.

Questions

If you have additional questions or concerns regarding the closure of a facility or relocation planning, contact the BAL Regional Director in your area for additional guidance. Contact information for BAL can be found at: http://www.dhs.wisconsin.gov/rl_DSL/Contacts/ALSreglmap.htm