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DQA Memo 20-006

To: Adult Family Home Providers

From: Alfred Johnson, Director  
Bureau of Assisted Living

Via: Otis Woods, Administrator  
Division of Quality Assurance

## Use of Remote Support Providers in Regulated Adult Family Homes

The purpose of this memo is to provide guidance on how Adult Family Homes can apply for a temporary variance of Wis. Admin. Code § DHS 88.07(1)(e): Resident Care General Requirements to use remote support providers while the public health emergency declared by Governor Evers in Executive Order #72 remains in effect and for up to 30 days from the end of the emergency.

The Division of Quality Assurance (DQA), Bureau of Assisted Living (BAL) has prioritized and will continue to respond to the concerns regarding caregiver availability. Every Adult Family Home (AFH) provider must engage in crisis management planning during these unprecedented times. To support current providers in the development of a crisis management plan related to caregiver availability, BAL may issue a temporary variance of Wis. Admin. Code § DHS 88.07(1)(e): Resident Care General Requirements.

This memo offers guidance on the use of remote support providers in DQA regulated AFHs under a temporary variance and the minimal operational requirements for a remote support provider.

### Submission and Review of Requests

Requests for a temporary variance to use remote support providers must be submitted in writing to the DQA regional office in which the facility is located. Contact information may be found at <https://www.dhs.wisconsin.gov/dqa/bal-regionalmap.htm>. A form is available online at <https://www.dhs.wisconsin.gov/forms1/f6/f62548.pdf>

BAL has an established Waiver, Approval, Variance and Exception (WAVE) committee that meets on a regular basis. Its function is to approve or deny any request by a regulated assisted living facility that requires department approval.

DHS 88.01(2)(b) states “Exception to a requirement. The licensing agency may grant an exception to any requirement in this chapter except a resident right under s. DHS 88.10, if the licensee requests the exception in writing on a form provided by the department, and presents a convincing argument that the proposed exception will not jeopardize the health, safety or welfare of residents, or violate the rights of

residents. The licensing agency shall respond in writing to the request within 45 days after receiving it. An exception may be granted only when it would not adversely affect the ability of the licensee to meet the residents' needs and if the exception will not jeopardize the health, safety or welfare of residents or violate the rights of residents. The licensing agency may impose conditions or time limitations on an exception. Violation of a condition under which the exception is granted constitutes a violation of this chapter.”

At a minimum, the request must identify the facility, the administrative code requirement for which action is requested, and all information supporting the request. Requests must contain specific information as indicated in the applicable regulations regarding variances. Requests must also contain enough information for the department to determine that the proposed action will not adversely affect the health, safety or welfare of residents.

The WAVE committee will consider granting a temporary variance to Wis. Admin. Code § DHS 88.07(1)(e), when the licensee provides evidence that a remote support provider demonstrates the following resident care requirements and meets the minimal operational requirements for a remote support provider listed below:

### **Resident Care Requirements**

- All residents residing in the home are capable of recognizing danger, summoning assistance, expressing need or making care decisions.
- All residents are capable of responding to a fire alarm by exiting the AFH without any help or verbal or physical prompting.
- Each resident shall be assessed for these required skills and the assessment must be documented and retained in the resident’s record.
- The assessed needs of each resident can be met with services made available through the use of remote supports.
- The resident or the resident’s legal representative shall sign and date an informed consent document acknowledging their understanding of an agreement with the use of a remote support provider for supervision and services.
- The use of a remote support provider to meet resident needs is included in the resident’s individual service plan, and agreed upon, by the resident, legal representative, the licensee and placing agency case manager, if any.
- All residents, legal representatives, and service providers receive training on use of the technology prior to implementation, and on-going training will occur as needed. The training shall be documented.

### **Minimal Operational Requirements for a Remote Support Provider**

- The remote support provider must have written emergency procedures for a system failure in the event of a power outage, fire or other weather emergency. The remote support provider must have safeguards and/or a backup system such as battery and generator for the electronic devices in place at the base monitoring station and the residential living site in the event of electrical outages.
- The remote support provider must have written emergency procedures for a resident medical issue, or personal emergency for each site utilizing the system as well as in each resident’s Individual

Service Plan (ISP). This ISP must specify the licensee or a service provider to be contacted by the remote staff who will be responsible for responding to these situations and traveling to the resident's living site.

- Remote Supports must include the capabilities to allow base monitoring station staff to effectively interact with and address the needs of residents in each living site, including emergency situations when the resident may not be able to use the telephone.
- A secure (compliant with the Health Insurance Portability and Accountability Act [HIPAA]) network system must be in place when using remote support technology.
- At the time of monitoring, the base monitoring station staff may not have duties other than the oversight and support of residents at remote living sites. Oversight of a resident's home must be done in real time by an awake-staff at a remote location (base monitoring station).
- The remote support staff must have detailed and current written protocols for responding to the needs of each resident at each remote living site, including contact information for the licensee or a service provider who can physically respond to the residential living site to supply onsite support, when necessary.
- Licensee must ensure s/he or a service provider can physically respond and arrive at the residential living site within a reasonable time as determined, and agreed upon, by the resident, legal representative, the licensee and placing agency case manager, if any.
- The licensee or service provider will assist the resident in the home as needed to ensure the urgent need/issue that generated an intervention response has been resolved. **The licensee shall ensure that he or she or a service provider is present in the facility and awake at all times if any resident is in need of continuous care.**
- Reports of activity from the remote support provider to the regulated AFH must be available to the BAL staff member upon request.

The WAVE committee will review all requests with the exception of those determined by the committee to require only independent review by the regional director. Failure to provide some or all of the necessary information may result in denial or significant delay of the approval process.

## Definitions

*Continuous Care:* The need for supervision, intervention or services on a 24-hour basis to prevent, control and ameliorate a constant or intermittent mental or physical condition which may break out or become critical during any time of the day or night. Some examples of persons who need continuous care are wanderers, persons with irreversible dementia, persons who are self-abusive or who become agitated or emotionally upset and persons whose changing or unstable health condition requires monitoring.

*Remote Supports:* Remote support (RS) means the provision of supervision and support to residents living in an AFH setting by means of two-way, live communication made possible by equipment that is

installed at the facility and operated by a remote support provider who is not physically present in the AFH.

*Remote Support Provider:* Agency that will install necessary RS technology in an AFH and provide education on use of the technology to the licensee, staff, and residents. Remote support providers must have a base monitoring station that includes live remote caregivers that can interact in real time with residents who are receiving the support.

*Service Provider:* A person or persons who provide direct care or supervision for a resident of the adult family home, either as an employee of the licensee or as a volunteer.

### **State Statutes and Administrative Rules Related to Adult Family Homes**

*Wis. Stat. § 50.01(1) Adult Family Home*

(b) A place where 3 or 4 adults who are not related to the operator reside and receive care, treatment or services that are above the level of room and board and that may include up to 7 hours per week of nursing care per resident.

*Wis. Admin. Code § DHS 88.04(2) Responsibilities*

(b) The license shall ensure that he or she or a service provider is present and awake at all times if any resident is in need of continuous care.

*Wis. Admin. Code § DHS 88.07(1) Resident Care General Requirements*

(e) The licensee shall arrange for a service provider to be present in the home when the licensee is gone overnight or when the licensee's absence prevents the resident from receiving the services, training or supervision specified in the resident's individual service plan under § DHS 88.06(3).

### **Resources**

DQA Memo 16-001 [Electronic Video Monitoring and Filming in BAL Regulated Facilities](#)

DQA Memo 15-003 [Waiver, Approvals, Variances, and Exceptions Request](#)

F-60309 [Self Supervision Evaluation and Waiver Request](#) (optional)