Department of Health Services **STATE OF WISCONSIN**
Office of Legal Counsel
F-02318 (10/2021)

WISCONSIN DEPARTMENT OF HEALTH SERVICES
PROPOSED ORDER TO ADOPT PERMANENT RULES

The Wisconsin Department of Health Services proposes an order to **repeal and recreate** DHS 88, relating to licensed adult family homes.

RULE SUMMARY

Statutes interpreted
Section 50.033 Stats.

Statutory authority
The Department is authorized to promulgate the proposed rules based on ss. 50.02 (2) (am) 2., 50.033 (2), and 227.11 (2) (a) Stats.

Explanation of agency authority

Section 50.02 (2) (am) 2., Stats. provides that the Department of Health Services ("the Department") shall promulgate rules for adult family homes. Section 50.02 (2) (am) 2., Stats., requires that the Department promulgate rules for adult family homes which establish minimum requirements for the following:

- Licensure and licensure application procedures and forms. In accordance with s. 50.033 (2), Stats., licensure is valid until revoked, and licensure is not transferrable.
- Standards for operating a licensed adult family home, in accordance with s. 50.033 (2), Stats.
- Standards for monitoring, inspecting, and revoking licensure of adult family homes, in accordance with s. 50.033 (3) to (6), Stats.
- Processes for an adult family home to appeal a revocation decision, in accordance with s. 50.033 (4), Stats.

Section 50.02 (3) (c), Stats., requires the Department to promulgate rules establishing procedures for waiver and variance of standards developed in accordance with sub. (2) (am) 2.

Section 50.033 (2) provides that the biennial licensure fee for adult family home shall be $171 but permits the Department to increase the fee by rule. Under sub. (2m), licensure reports are required to be submitted every 24 months, on a schedule determined by the Department, and licensure may be revoked if a report is not submitted within 60 days after the report's due date. Subsection (3) of the statute requires that the Department investigate any alleged uncertified operation, and permits the Department to either (1) license the premises if all requirements in statute and rules are met, or (2) if the requirements of statute and rules are not met, seek an injunction in circuit court under sub. (5) for unlicensed operation of an adult family home. Subsection (4) of the statute provides that an adult family home's licensure may be revoked for "substantial and intentional violation" of statute or rules, or for failing to meet minimum standards for licensure. Subsection (4) also specifies that an aggrieved adult family home may appeal a licensure revocation in accordance with procedures specified in rule.

Related statute or rule
Section 50.01 (1), Stats., which defines "adult family home."
Section 50.02 (1), Stats., providing the Department's general authority to certify and license adult family homes.
Section 50.032, relating to certification of adult family homes.
Section 939.51, Stats., specifying misdemeanor offense levels, for which violations under ss. 50.032 (6) and 50.033 (6), Stats., are classified.

Plain language analysis

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Licensed Adult Family Homes ("AFHs") provide care, treatment, or services to three or four adults who are not related to the operator that are above the level of room and board, including up to seven hours per week of nursing care per resident.[1] Section 50.01 (1), Stats. As of September 2025, there were 2,344 AFHs in Wisconsin. AFHs have traditionally cared for elders with minor health problems or individuals with mild intellectual disabilities. However, over the past several years, AFHs have been developed that provide care to residents who have significant medical needs, intellectual disabilities, mental illness, or who are on probation or extended supervision under the correctional system.

Chapter DHS 88 establishes licensing standards for the operation of AFHs. This rule chapter was created on June 1, 1995, and it has not been substantially revised since that time. The department proposes to update ch. DHS 88 for the purpose of strengthening provisions related to the health, safety, and welfare of residents, and for the purpose of providing standards for the care of residents and the training of staff necessary to meet the evolving needs of residents in AFHs.

The Department established an interdivisional agency group which studied the delivery of long-term care services and made recommendations for improving those systems and providing services to Wisconsin's most vulnerable populations. Based on that group's recommendations, and pursuant to s. 50.02 (2) (am) 2. , Stats., the Department proposes to repeal and recreate DHS 88 to accomplish all of the following:

- Create AFH licensing classifications based on residents' ambulation status and ability to respond to an emergency, as follows:
    - Class A AFHs would serve residents who are ambulatory and are mentally and physically capable of responding to an electronic fire alarm and exiting the facility without any help or verbal or physical prompting within 2 minutes.
    - Class B AFHs would serve residents who are ambulatory or semi-ambulatory and who are capable of responding to an electronic fire alarm and exiting the facility within 4 minutes with or without any help or verbal or physical prompting.
    - Class C AFHs would serve residents who are non-ambulatory, or ambulatory or semi−ambulatory and who are capable of exiting the AFH with an evacuation time of 4 minutes or more, with or without verbal or physical prompting.
- Modernize environmental accessibility and safety requirements to ensure protection of residents with physical and intellectual disabilities. For example, all AFHs are required to have a 1 and ¾ inch solid core wood door or an equivalent fire-resistive rated door to protect openings between attached garages to contain fire and limit the spread of smoke. Class B AFHs are required to have exit doors with a clear opening of at least 32 inches in width and an interconnected smoke detection system. Class C AFHs licensed prior to the effective date of the rule are required to have both interior and exit doors with a clear opening of at least 32 inches in width and an interconnected smoke detection system with battery backup and external monitoring of the system. Class C AFHs initially licensed after the effective date of the rule will also be required to have a sprinkler system.
- Establish an infection control program based on current standards of practice to prevent the development and transmission of communicable disease and infection. This program includes the use of individual towel dispensers in common use bathrooms and communicable disease screening of staff. The proposed infection control program must include orientation and ongoing education for all staff.
- Increase new licensee education or experience requirements. Existing licensees would not be subject to this requirement.
- Increase staff training requirements based on the acuity levels of residents residing in the AFH. Staff who are employed as of the effective date of the proposed rule would not be subject to these training requirements. The proposed rule requires completion of Department-approved training in the areas of standard precautions, fire safety, first aid and choking, and medication management. The proposed rule

[1] Certified adult family homes, for which this rule is not applicable, are private residences that provide care and maintenance above the level of room and board but not including nursing care and that meet the other requirements described under s. 50.01 (1) (a) 1. and 2. Requirements applicable to certified adult family homes may be found under s. 50.032, Stats., and ch. DHS 82.

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requires all employees who are responsible for conducting resident assessments or who are responsible for service plan development to successfully complete training in these task-specific areas prior to assuming the job duties. The proposed rule distinguishes between training required for all employees and training that is "task-specific," or only applicable to AFHs that serve residents with those needs. The proposed rule contains multiple exemptions for required training based on professional licensure, nurse aide status, and completion of prior department approved training courses.

- Support reasonable and flexible regulatory processes. The proposed rule contains provisions for the use of waivers and variances to meet a requirement, recognizes multiple exemptions for required training, includes a clause to grandfather current licensees and current employees from proposed qualification standards and certain training requirements, and applies some physical and fire safety requirements only to AFHs initially licensed after the effective date of the rule.
- Require that a resident assessment be completed prior to a resident's admission. Areas of assessment include physical health, medications, presence of pain, nursing procedures required, mental and emotional health, behaviors that may be harmful, and risks such as choking, falling, or wandering. The proposed rule requires AFHs to prepare a temporary service plan to meet the resident's needs upon admission and a comprehensive service plan within 30 days of the resident's admission. Assessments and service plans must be updated at least annually.
- Develop evidenced-based program standards, training standards, and environmental safeguards for AFHs that admit and provide care to residents with dementia. Minimum standards include training on the effects of dementia on communication, mood, behavior, nutrition, and the use of activities and the physical environment to reduce stress and maintain meaningful involvement of residents in their day.
- Clarify nurse delegation responsibilities for certain routes of medication administration and limited health services to a non-licensed caregiver to address acuity of care and allow the facility to provide appropriate care in a time of limited nurse availability. The proposed rule requires an AFH providing limited health services to employ or contract with a registered nurse, home health agency, or hospice, who can provide or delegate specific care tasks to non-licensed employees and provide the oversight to ensure quality care and treatment. An AFH administering nebulizers; stomal and enteral medications; medications, treatments or preparations delivered vaginally or rectally; and injectables, except epinephrine auto injectors and naloxone, shall have an RN or LPN administer these medications or have an RN delegate the administration to non-licensed employees pursuant to s. N 6.03 (3).
- Update provisions relating to reporting, investigating, and documenting allegations of caregiver misconduct for consistency with Wisconsin statutes and other administrative rules.
- Establish a relocation planning process that includes notification to the Department and adequate time for the resident to choose and visit a potential admitting facility prior to moving.

Summary of, and comparison with, existing or proposed federal regulations

There are no federal regulations proposed or in effect for AFHs.

Comparison with rules in adjacent states

Each adjacent state has regulations governing similar types of assisted living facilities. Each summary includes the state's requirements for (1) resident assessment, (2) life safety, (3) staffing requirements, (4) medication management, and (5) staff education and training.

Illinois:

Illinois administrative code requires a physician's assessment of the resident prior to admission and at least annually. The care is under the supervision of a full-time manager and at least one staff member must be awake, on duty, and on site 24 hours a day. There must be a minimum of one direct care staff person who is CPR certified on duty. There are no mandatory staffing ratios. All medications must either be self-administered, administered by a licensed health care professional, or a medication aide. New employees are required to complete orientation within either 10 or 30 days after the starting date of employment on certain topics including resident rights, abuse and neglect prevention and reporting requirements, characteristics and needs of the residents, internal establishment requirements and the establishment's policies and procedures,

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and training in assistance with activities of daily living appropriate to the job. Each employee shall complete a minimum of eight hours of annual continuing education. Assisted living and shared housing establishments must comply with the residential board and care occupancies chapter of the National Fire Protection Association's (NFPA) Life Safety Code (Life Safety Code) 101, Chapter 32 for new establishments and Chapter 33 for existing establishments. Applicable regulations are found in Illinois Administrative Code, Title 77, Chapter I, Subchapter d, Part 295.
https://www.ilga.gov/commission/jcar/admincode/077/07700295OI90000R.html
https://www.ahcancal.org/Assisted-Living/Policy/Pages/state-regulations.aspx

Iowa:

Iowa administrative code requires programs to conduct a resident assessment for each resident within 30 days of occupancy and at least annually thereafter. Further, Iowa administrative code requires that a service plan be developed for each resident designed to meet the specific needs of the resident which must be updated at least annually. The program must be overseen by an RN and the program must have a sufficient number of trained staff available at all times. There are no mandatory staffing ratios. If a resident delegates medication administration to the program, the medication must be administered by licensed nursing staff or by a staff member who has successfully completed a medication aide or manager course approved by the Iowa Department of Inspections and Appeals. A program that administers prescription medications or provides health-related care must have an RN monitor the resident at least every 90 days or after a significant change in condition. Iowa assisted living providers are inspected and approved with the 2024 International Fire Code (IFC), 2024 International Building Code (IBC) and the adopted standards of the 2022 NFPA 13 and 72 standards. The sprinkler and fire alarm systems are dictated by these codes and standards. Building type may determine which type of sprinkler system should be installed. Applicable regulations are found in Iowa Administrative Code, Title 481, Chapter 69.
https://www.ahcancal.org/Assisted-Living/Policy/Pages/state-regulations.aspx
https://www.legis.iowa.gov/docs/ACO/chapter/481.69.pdf
https://www.legis.iowa.gov/docs/iac/chapter/12-27-2023.481.67.pdf

Michigan:

Michigan public health code requires assessments and service plans at the time of an individual's admission with service plans updated at least annually or upon a significant change in the individual's condition. The program must have adequate and sufficient staff on duty at all times and staffing must be adequate to provide the supervision, personal care, and services specified in the resident's service plan. Direct care staff must be at least 18 years of age and competent in the following areas before performing assigned tasks: reporting requirements, first aid, CPR, personal care, supervision, protection, resident rights, safety and fire prevention, and prevention and containment of communicable diseases. A licensee shall follow the instructions and recommendations of a resident's physician or other health care professional with regard to medication. Staff must be trained in the administration of medication before performing that duty. The administrative rules for state licensing establishes the requirement that the licensed provider maintain compliance with the health care facility fire safety rules enforced by the Bureau of Fire Services (BFS). For new construction, homes must have a hard-wired, interconnected smoke detection system.
Applicable regulations are found in Michigan Administrative Code R 400.601 to 400,745, R 400.14101 to 400.14601, and R 400.18101 to 400.18702.
https://www.michigan.gov/lara/-/media/Project/Websites/lara/bchs/Folder1/AFC-Ruleset-Final.pdf?rev=364423ba48fb418da5c37aa67f8344b2&hash=7ACE6DFBD9EBFC3FD9334334BBE95E5E
https://ars.apps.lara.state.mi.us/AdminCode/DeptBureauAdminCode?Department=Licensing%20and%20Regulatory%20Affairs&Bureau=Bureau%20of%20Fire%20Services
https://www.michigan.gov/lara/-/media/Project/Websites/lara/bchs/Folder2/small-group-home-rules.pdf?rev=ee373f60d66d46569f093f41f44058aa&hash=BD3FBC
https://www.ahcancal.org/Assisted-Living/Policy/Pages/state-regulations.aspx

Minnesota:

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Minnesota statutes require that an RN conduct an assessment of a resident and develop a temporary service plan before or on the date of the resident's admission. Reassessment and monitoring must be conducted no more than 14 calendar days after initiation of services, including the development of the service plan. Reassessment and monitoring must be conducted as needed based on changes in the needs of the resident and cannot exceed 90 calendar days from the last date of the assessment. Program services may be provided by unlicensed staff who have demonstrated competency by satisfactorily completing a test on the tasks to be performed. A prescribed level of supervision is detailed in the rules. An RN or licensed health professional may delegate tasks to unlicensed personnel under specific requirements for training and ongoing supervision. Assisted living facilities are required to have a person available 24 hours a day who is responsible for responding to the requests of assisted living clients. There are no mandated staffing ratios. All staff that perform direct services must complete at least eight hours of annual training. Prior to providing medication management services to a resident, an RN or authorized prescriber must conduct an assessment of the resident to determine what medication management services will be provided and how the services will be provided. This assessment must be conducted face-to-face with the resident. Assisted living facilities must comply with the State Building Code and State Fire Code and local building and zoning codes and requirements. Minnesota State Fire Code is comprised of the International Fire Code, with certain amendments. These requirements include the use of smoke detectors in designated locations with specified power sources dependent on the size of the dwelling. Applicable laws are found in Minnesota Statutes, Chapter 144G.
https://www.revisor.mn.gov/statutes/cite/144G/pdf.
https://www.ahcancal.org/Assisted-Living/Policy/Pages/state-regulations.aspx

Summary of factual data and analytical methodologies

The Department referred to the 2022 United States Economic Census to identify the latest economic data available on businesses in Wisconsin. The Department relied on agency databases, such as the Adult Programs Information System ("APIS"), to identify demographic, licensing program, and compliance history of AFHs in Wisconsin. Based on data from APIS, as of September 2025, there are 2,344 licensed AFHs in Wisconsin, and the Department estimates that approximately 38%, or about 891, of those licensed AFHs meet the criteria for a Class C AFH. Many of these entities are "small businesses" as the term is defined under s. 227.114 (1) (a), Stats. AFH entities include non-profits such as churches, for-profit corporations, partnerships, limited liability corporations, sole proprietorships, and governmental entities.

Fire safety

The Department considered the following sources while drafting the proposed rules with respect to fire safety:

- The following professional standards: (1) Wisconsin Commercial Building Code, chs. SPS 361 to 366, current edition; (2) NFPA 72, National Fire Alarm Code (2013 edition); (3) NFPA 13, Standard for the Installation of Sprinkler Systems (2013 edition); (4) NFPA 13R, Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height (2013 edition); (5) NFPA 13D, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes (2013 edition); (6) Wisconsin Uniform Dwelling Code, ch. SPS 321.
- Residential Fire Estimate Summaries, based on data reported to the U.S. Fire Administration's National Fire Incident Reporting System. National data for 2023 indicated fire departments responded to an estimated 344,600 fires in residential buildings across the nation.[2] These fires resulted in an annual average of 2,890 deaths, 10,400 injuries and $11.2 billion in property loss.
- A publication by NFPA Research titled "Fire Loss in the United States" (Oct. 31, 2024),[3] which reported that:
    - In 2023, one of every five fires reported occurred in one- or two-family homes. These fires caused more than half of civilian fire deaths and injuries, and $8.7 billion in property damage.
    - In 2023, apartment or other multi-family housing fires accounted for 6 percent of reported fires. These fires caused 11% of all civilian fire deaths, one-fifth of all civilian fire injuries, and $2.3

[2] This information is available at: https://www.usfa.fema.gov/statistics/residential-fires/.
[3] This information is available at: https://www.nfpa.org/education-and-research/research/nfpa-research/fire-statistical-reports/fire-loss-in-the-united-states.

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billion in direct property damage.

- A study by Millenium Fire & Security titled "Assisted Living Facilities - Most At-Risk Of Fires In The Medical Industry" (Jan. 9, 2023),[4] which found that from 2012-2014, of the 5,700 medical facility fires that took place, almost half occurred in assisted living facilities. Seventy-two percent of fires started in the kitchen, 7% from appliances, 5% from heating, and 4% from electrical malfunctions.
- An August 22, 2018, blog post by Harvey, Foote & Baker[5] identified a lack of a sprinkler systems as a major reason for fires to break out in senior living facilities. Facilities with sprinkler systems have a chance to put out small fires before they spread. The most common sources of senior living facility fires were from the kitchen, laundry, and smoking materials.
- Data from Wisconsin Department of Health Services regarding reported fires from assisted living providers:
  - In 2022, there were 66 assisted living reported fires. Fourteen of the 66 were from AFHs.
  - In 2023, there were 52 assisted living reported fires. Five of the 52 were from AFHs.
  - In 2024, there were 46 assisted living reported fires. Three of the 46 were in AFHs.
- Citation data for calendar year 2024, publication P-01726,[6] indicated that two of the top ten citations for AFHs were:
  - 88.05(3)(a) HOME ENVIRONMENT = 77 citations issued.
  - 88.10(3)(l) SAFE PHYSICAL ENVIRONMENT = 69 citations issued.
- The current Department-approved curriculum for Community Based Residential Facilities (CBRFs) and average costs in the areas of fire safety, first aid and choking, medication management, and standard precautions.
- Recommendations from the Wisconsin Fire Sprinkler Coalition, City of Madison Fire Department, and City of Sun Prairie Fire & EMS to require an NFPA 13D system for any building that falls under the scope of the Uniform Dwelling Code and NFPA 13R for anything located in a building under the scope of SPS 361 Commercial Building Code.
- Estimated costs for installing sprinkler systems were gathered from a July 22, 2022 HomeServe blog post,[7] and examples from three residential sprinkler installations by HJ Pertzborn in the Madison area. The Department estimates it costs $2 to $7 per square foot to install a sprinkler system in new construction, and between $4 and $10 per square foot to retrofit an existing construction. The Department considered several additional variables to determine sprinkler costs including the use of a private well and water holding tank, costs for potential upgrades to a municipal lateral water line, and the cost of annual sprinkler inspections. The Department determined that these cost estimates applied to an estimated 891 Class C licensed AFHs[8] would result in implementation or compliance costs exceeding $10,000,000 over a two-year period in Wisconsin for purposes of s. 227.139, Stats. In order to reduce implementation or compliance costs, the proposed rule requires only class C AFH initially licensed after the effective date of the proposed rule to be compliant with the sprinkler system requirements. Class C AFHs that were initially licensed before the effective date of the rule are required to have an interconnected smoke system with a backup battery system and external monitoring. An applicant for an AFH license that cannot afford a sprinkler system may choose to change the classification of their license to a Class A or B AFH, or it could reduce capacity and become a two-bed certified adult family home not subject to ch. DHS 88.
- Estimates for installing an interconnected smoke detection system, which are required in all Class B and C AFHS, were collected from a September 1, 2024, Safetyspecial blog post titled "How to Interconnect Smoke Alarms."[9] Material costs for smoke alarms suitable for interconnection along with electrical supplies range from $75 to $150 each depending on the brand and features. To hire an electrician to

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[4] This information is available at: https://www.millennium-fire.com/assisted-living-facilities-most-at-risk-of-fires-in-the-medical-industry/.

[5] This information is available at: https://www.harveyfirm.com/blog/2018/august/what-causes-fires-in-senior-living-communities-/

[6] Publication P-01726, State of Assisted Living, Calendar Year 2024, dated 02/2025; available at https://www.dhs.wisconsin.gov/publications/p01726.pdf

[7] This information is available at: https://www.homeserve.com/en-us/blog/cost-guide/residential-fire-sprinkler-system.

[8] As of September 2025, , there were 2,344 licensed AFHs. The Department estimates that 38% of those licensed AFHs would qualify as Class C AFHs under the proposed rules.

[9] This information is available at: https://safetyspecial.com/how-to-interconnect-smoke-alarms/.

install, labor costs can range from $150 to $300, depending on the complexity of the job and local labor rates. MSA Professional Services indicated a project cost for an interconnected smoke detection system utilizing a combination smoke/carbon monoxide detector for an existing 1,262 square foot, single-family, 4 bedroom ranch home, including basement, was $1,735. This included installation of 8 new combination devices and installation of a 120-volt circuit with a 9 vdc battery for backup. The cost for the same system installed in new construction would be estimated at $1500. Annual inspections for interconnected smoke detection systems can cost between $200 and $500 depending on the size and complexity.
The Department estimates that less than 5% of all existing AFHs have interconnected smoke detection systems, and an average of 8 interconnected smoke detectors will need to be installed in each existing AFH. An interconnected system means the smoke alarms communicate with each other so that if one smoke alarm activates then all the smoke alarms in the AFH go off, making it more likely that all residents and staff will be alerted to the danger and have the best chance of getting out of the AFH before they are overcome by smoke and unable to exit the AFH.

- The proposed rule requires a Class C AFH licensed prior to the effective date of the proposed rule to include an externally monitored, interconnected smoke detection system with a battery backup power supply. According to MSA Professional Services, an interconnected smoke detection system would require a dialer be installed to allow for external monitoring. A programmable dialer that uses a phone line would cost approximately $105, however, using a cellular type of unit can cost around $1,200.
- The cost estimate for monthly monitoring service is based on feedback from current AFH licensees. The monthly cost estimate is approximately $200 - $600. A licensed AFH in Milwaukee using Midwest Security & Fire, Inc. is $212 monthly. The monitoring fee covers the 24/7 service of the agency Central Monitoring to respond anytime the alarm goes off at the AFH or if there is a "Test with Trouble" which alerts when there is an issue with the system to troubleshoot. When the alarm is activated the monitoring company connects with the local fire department and calls a list of staff numbers to be notified.
- The proposed rule requires all AFHs to have a solid core wood door or an equivalent fire-resistive rated door to protect openings between an attached garage to contain fire, limit the spread of smoke, and allow additional time to evacuate vulnerable persons from a facility. The one-time cost for solid core doors or equivalent fire protection is estimated at an expense of $250 per door.

Physical environment

- The proposed rule increases inspections for oil furnaces to take place annually, compared to every two years. Based on survey data from current licensees, the department estimates that 5% of adult family homes have oil furnaces. The department estimates the annual inspection is $250 per oil furnace.
- The department estimates that 25% of adult family homes will need updated detection units and will install 2 per facility. Based on publicly available data, the department estimates that plug in style units cost an average of $25.
- The proposed rule requires Class B adult family homes to have exit doors with a clear opening of at least 32 inches in width. Based on feedback from a provider survey, it's estimated that 32% of adult family homes would be Class B licensure. It's estimated that 40% of Class B adult family homes would need one door at $1500 per door.

Hand drying

The risk of developing a communicable disease is 2 to 4 times greater in a communal living arrangement. The proposed rule requires that common use bathrooms have either individual towel dispensers, enclosed cloth towel dispensing units, or electric hand dryers to help prevent the spread of infection. This requirement does not apply to private resident bathrooms. The number of common use bathrooms in a facility is generally limited. Based on an internet search, the cost of a cloth towel dispensing unit is approximately $75, with recycling cloth towels averaging $50 per roll. An individual paper towel dispenser costs approximately $30. Paper supplies average $75 per year. The average cost of a single electric hand dryer ranges between $50 - $150 per unit.

License qualifications

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The proposed rule requires an AFH facility licensee to have one of the following qualifications: (1) an associate degree or higher in a healthcare-related field; (2) a bachelor's degree in a field other than in healthcare and one year experience working in a health-care related field having direct contact with one or more of the client groups identified under s. DHS 88.02 (16); (3) at least 2 years' experience working in a healthcare-related field having direct contact with one or more of the client groups identified under s. DHS 88.02 (16) and successful completion of an assisted living administrator's licensee's training course approved by the Department or the Department's designee; or (4) a valid nursing home administrator's license issued by the Department of Safety and Professional Services.

The existing rule requires a licensee be at least 21 years of age. Current licensees will not be subject to the new qualifications. Only individuals seeking licensure after the rule is enacted will be subject to the new requirements. This requirement in the proposed rule was developed to improve leadership skills and accountability in the provision of services to residents whose acuity levels are rising.

Staff training

The acuity level of residents living in AFHs has increased steadily. Many residents have complex medical and/or behavioral needs that require a trained and knowledgeable response. AFHs often care for residents who, in the past, would have lived in a nursing home and have care needs that require staff assistance with eating, toileting, dressing, supervision, and ambulation. A strong training program is essential to ensure that staff has the required skills to meet the needs of the residents.

Per Publication P-01726, 5 of the top 10 most frequently cited AFH rules violations were as follows:

- 88.07(3)(a) PRESCRIPTION MEDICATIONS = 67 citations
- 88.06(3)(f) REVIEW OF ISP = 59 citations
- 88.07(3)(e)1. MEDICATION – RECORD KEEPING = 51 citations
- 88.07(3)(d) MEDICATION – WRITTEN ORDER = 47 citations
- 88.04(5)(b) TRAINING-8 HOURS ANNUALLY = 44 citations

Training requirements in the proposed rule address the increasing acuity care levels of consumers residing in AFHs and enhance the ability of staff to meet the increasing care needs of consumers living in assisted living facilities. The proposed rule requires Department-approved training curriculum in the areas of Fire Safety, First Aid and Choking, Medication Management, and Standard Precautions. All trainers will need to use the Department's curriculum. Trainers for these topic areas will need to be certified by a Department-approved entity using standards established by the Department. Trainers seeking certification from this entity will pay a cost determined by the entity. There may be a cost for trainers to renew their certification on a scheduled basis.

Some providers may choose to have an employee become a Department-approved trainer for greater flexibility. The cost for current Department-approved Train-the-Trainer classes under ch. DHS 83 may be used to estimate future AFH trainer costs for the 4 proposed required trainings. Current cost estimates are as follows from the Wisconsin Caregiver Academy: Medication Administration $1400, Standard Precautions $500, Fire Safety $1000, and First Aid and Choking $1000.

Current cost estimates, based on the average of what instructors at University of Wisconsin – Green Bay are charging for current Department-approved trainings required by ch. DHS 83, are as follows:

Program	Hours required (additional time for testing)	Average cost per person
Fire safety	3	$98
Standard precautions	2	$83
Medication	14	$183
First aid and choking	4	$115

The training requirements established in the proposed rule allow flexibility in meeting the training

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requirements in the topic areas outside of the Department-approved training topics. Providers may use in-house staff knowledgeable in a topic area to train other staff without having to seek Department approval for the trainer and the curriculum. Providers who do not have in-house resources may seek out trainers in the private or public sector to provide this training to staff.

The proposed rule contains exemptions for required trainings. Current staff who are employed by an AFH on the effective date of the rule will be exempt from most training requirements, except for continuing education requirements. Staff who have completed Department-approved training in standard precautions, fire safety, first aid and choking, and medication administration and management and are currently on the Misconduct Registry are exempt from these requirements. A nurse aide in good standing on the Wisconsin Nurse Aide Registry would be exempt from several trainings, including standard precautions, client group, resident rights, challenging behaviors, and personal care training. Practitioners, as defined in the proposed rule, licensed practical nurses, registered nurses, are exempt from most other training.

Resident assessments and individual service plans

The proposed rule increases the frequency of required resident assessments. Currently, an assessment must be completed within 30 days of admission. The proposed rule would require a resident assessment prior to admission, whenever there is a change in needs, and at least annually. A comprehensive, accurate assessment directs a resident's individual service plan. An AFH must develop an individual service plan for each resident based on the individual needs identified from the required assessments. The plan also specifies the different types of interventions staff will use to meet the resident's needs and identify the provision or arrangement for those services as necessary.

The time to complete the assessment and to develop or revise the individual service plan is estimated to take between 2-6 hours depending upon multiple factors including whether the resident is a new admission or current resident, complexity of the care needs, and significance of any necessary revisions. The proposed rule requires all employees responsible for conducting resident assessments or responsible for service plan development to successfully complete training in these task-specific areas prior to assuming the job duties or meet an exemption. The cost to receive the required training is a one-time fee.

Medication administration and management

The proposed rule includes a set of requirements for medication administration and management with flexibility for RN supervision. When medication administration is supervised by an RN, the RN delegates and supervises the administration of medication and the medication administration system. The RN will participate in the resident's assessment and the development and review of the individual service plan regarding the resident's medical condition and the goals of the medication regimen. When medication administration is not supervised by an RN, the AFH shall arrange for a pharmacist to package and label a resident's prescription medications in unit doses. In addition, specific routes of medication administration (nebulizers, stomal and enteral medications, and medications, treatments or preparations delivered vaginally or rectally, and injectables) shall be administered by an RN or LPN, or an RN may delegate the administration to non-licensed employees.

Many licensed AFHs have already implemented a unit dose medication system to reduce medication errors and related resident risks. Based on feedback from a current provider and provider association, it is estimated that the addition of RN delegation for specific routes of medication administration would take 1 hour per route of medication delegated per staff member annually with delegation of stomal and enteral medications requiring up to 3 hours annually. According to ZipRecruiter, as of March 24, 2025, the average hourly pay for an RN is $42.64.[10] According to the Bureau of Labor Statistics, U.S. Department of Labor, news release USDL-25-1358, dated September 12, 2025, employer costs for employee compensation in June 2025 in private industry was 29.8% of compensation. The employee compensation was based on total benefits including paid leave, supplemental pay, insurance, retirement and savings, and legally required benefits.

[10] This information is available at: https://www.ziprecruiter.com/Salaries/Registered-Nurse-Salary--in-Wisconsin.

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Limited health services

An AFH offering limited health services (e.g. stage I or II pressure injury treatment, simple wound care, established ostomy cares, urinary catheter cares, use and maintenance of feeding tubes) must employ or contract with an RN, home health agency, or hospice. The RN shall provide or delegate the limited health services, participate in the development of service plans, and perform nursing assessments of residents receiving limited health services every 90 days.

Based on feedback from a current provider and provider association, it is estimated that the addition of RN delegation for specific limited health services would take 1 hour per service delegated per staff member annually with delegation of urinary catheter care averaging 2 hours and wound care up to 6 hours annually. Performing nursing assessments and providing input to the service plan is estimated to take 4 hours per event. According to ZipRecruiter, as of March 24, 2025, the average hourly pay for an RN is $42.64. According to the Bureau of Labor Statistics, U.S. Department of Labor, news release USDL-25-1358, dated September 12, 2025, employer costs for employee compensation in June 2025 in private industry was 29.8% of compensation. The employee compensation was based on total benefits including paid leave, supplemental pay, insurance, retirement and savings, and legally required benefits.

Effect on small business

In addition to considerations per ss. 227.114 (2) and (3) and 227.14 (2), Stats., the Department considered criteria adopted by the Department and approved by the Wisconsin Business Regulatory Review Board to determine whether proposed rules have a significant economic impact on a substantial number of businesses.

Pursuant to the Department's criteria, the proposed rule will have a significant economic impact on a substantial number of businesses if operating expenditures, including annualized capital expenditures, for at least 10% of the businesses affected by the proposed rule increase by more than the prior year's consumer price index. Further, the proposed rule will have a significant economic impact on a substantial number of businesses if revenues for at least 10% of the businesses affected by the proposed rule decrease by more than the prior year's consumer price index. For the purposes of this rule order, 2023 is the index year. The consumer price index is compiled by the U.S. Department of Labor, Bureau of Labor Statistics. For 2023, the consumer price index was 3.2%.

The proposed rule may have a significant economic impact on small businesses pursuant to the Department's criteria for determining a rule's fiscal impact on businesses. It is anticipated that many AFHs will experience increased costs from one or more of the additional requirements established in the proposed rule. However, a number of AFHs already meet or exceed the requirements set forth in the proposed rule. For those impacted, the proposed rule may increase costs modestly. Based on available data, the increased costs for most AFHs will be less than the 2023 CPI of 3.2%. If a facility needs to install a sprinkler system the initial costs may exceed the 2023 CPI, however, ongoing costs will be reduced in subsequent years.

Agency contact person

Jessica Holland, Policy Advisor
608-266-3864
jessicam.holland@dhs.wisconsin.gov

Place where comments are to be submitted and deadline for submission

Comments may be submitted to the agency contact person that is listed above until the deadline given in the upcoming notice of public hearing. The notice of public hearing and deadline for submitting comments will be published in the Wisconsin administrative register and to the department's website, at https://www.dhs.wisconsin.gov/rules/active-rulemaking-projects.htm. Comments may also be submitted through the Wisconsin Administrative Rules Website, at: https://docs.legis.wisconsin.gov/code/chr/active.

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RULE TEXT

SECTION 1. DHS 88 is repealed and recreated to read:

Chapter DHS 88

LICENSED ADULT FAMILY HOMES

Subchapter I — General Provisions
DHS 88.01 Authority and purpose.
DHS 88.02 Definitions.
DHS 88.03 Variance and waiver.

Subchapter II — Licensing
DHS 88.04 Licensing classification.
DHS 88.05 Application requirements.
DHS 88.06 Program statement.
DHS 88.07 Eligibility determination.
DHS 88.08 Department action.
DHS 88.09 Reporting requirements.
DHS 88.10 Change of ownership.
DHS 88.11 Closure and relocation planning.
DHS 88.12 Investigation, notification, and reporting requirements.
DHS 88.13 Record retention.

Subchapter III — Personnel
DHS 88.14 Licensee.
DHS 88.15 Employee.
DHS 88.16 Hiring and employment.
DHS 88.17 Employee records.

Subchapter IV — Orientation and Training
DHS 88.18 Orientation.
DHS 88.19 Department approved training.
DHS 88.20 All employee training.
DHS 88.21 Task specific training.
DHS 88.22 Employee supervision.
DHS 88.23 Exemptions.
DHS 88.24 Continuing education.
DHS 88.25 Documentation.

Subchapter V — Admission, Retention and Discharge
DHS 88.26 Limitations on admissions and retentions.
DHS 88.27 Admission procedures.
DHS 88.28 Admission agreement.
DHS 88.29 Discharge or transfer.

Subchapter VI — Resident Rights and Protections
DHS 88.30 Rights of residents.
DHS 88.31 Grievance procedure.
DHS 88.32 Resident funds.

Subchapter VII — Resident Care and Services
DHS 88.33 Assessment, individual service plan and evaluations.
DHS 88.34 Medications.
DHS 88.35 Staffing requirements.

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DHS 88.36 Program services.
DHS 88.37 Infection prevention and control.
DHS 88.38 Oxygen storage.
DHS 88.39 Food service.
DHS 88.40 Resident records.

Subchapter VIII — Physical Environment
DHS 88.41 Common areas.
DHS 88.42 Resident bedrooms.
DHS 88.43 Bath and toilet areas.
DHS 88.44 Housekeeping services.
DHS 88.45 Storage areas.
DHS 88.46 Building maintenance and site.
DHS 88.47 Building support systems.
DHS 88.48 Attached garages.
DHS 88.49 Exits and doors.

Subchapter IX — Safety
DHS 88.50 Resident safety requirements.
DHS 88.51 Fire safety requirements.
DHS 88.52 Fire protection systems.

Subchapter X — Building Standards
DHS 88.53 Codes.
DHS 88.54 New construction, remodeling, or newly licensed existing structures.

Subchapter I — General Provisions

DHS 88.01 Authority and purpose. (1) This chapter is promulgated under the authority of s. 50.02 (2) (am) 2. and 50.033 (2), Stats., to develop and establish licensing regulations and standards for the care, treatment, or services, and health, safety, rights, welfare, and comfort of residents in adult family homes.

(2) The chapter is intended to ensure that licensed adult family homes provide all of the following:

(a) A living environment for residents that is as homelike as possible and is the least restrictive of each resident's freedom.

(b) Care and services for each resident's needs in a manner that protects the rights and dignity of the resident and that encourages the resident to move toward functional independence in daily living or to maintain independent functioning to the highest possible extent.

DHS 88.02 Definitions. In this chapter:

(1) "Abuse" has the meaning given in s. DHS 13.03 (1) (a).

(2) "Accessible" means barriers are not present that prevent a person from entering, leaving, or functioning within an AFH with- out physical help.

(3) "Activities of daily living" or "ADL" means bathing, eating, oral hygiene, dressing, toileting and incontinence care, mobility, and transferring from one surface to another such as from a bed to a chair.

(4) "Adult" means an individual who is at least 18 years of age.

(5) "Adult family home" or "AFH" has the meaning given in s. 50.01 (1) (b), Stats.

(6) "Advanced age" means an age of at least 60 years.

(7) "Advanced practice registered nurse" means an individual licensed under s. 441.09, Stats.

(8) " Ambulatory" means the ability to walk without difficulty or help.

(9) "Applicant" means a person seeking licensure as an AFH.

(10) "Approved food source" means a food supplier that has been inspected by an authorized agency for compliance with all applicable local, state, and federal laws.

(11) "Assessment" means gathering and reviewing information about a prospective or existing resident's needs and abilities as provided in s. DHS 88.33.

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(12) "Basement" means that portion of a building that is partly or completely below grade.
(13) "Care, treatment, or services" means the provision of personal care, supervision, and supervision or assistance with medication administration or management to a resident by an AFH employee, or by a person, agency or corporation affiliated with or under contract to the licensee that is above the level of room and board.
(14) "Case manager" means a person who plans, coordinates, and oversees the care of a resident.
(15) "Chemical restraint" means a psychotropic medication used for discipline or convenience that is not required to treat medical symptoms.
(16) "Client group" means a group of individuals who need similar services because of a common disability, condition, or status. "Client group" includes a group of individuals who have any of the following:

(a) Advanced age.
(b) Dementia.
(c) A developmental disability, as defined in s. 51.01 (5), Stats.
(d) An emotion disturbance or a mental illness, as defined in s. 51.01 (13) (a), Stats.
(e) An alcohol dependency, including alcoholism, as defined in s. 51.01 (1m), Stats., or a drug dependence, as defined in s. 51.01 (8), Stats.
(f) A physical disability.
(g) A pregnancy with the need for counseling services.
(h) An order to be under the legal custody of a government correctional agency or under the legal jurisdiction of a criminal court.
(i) A terminal illness diagnosis.
(j) A traumatic brain injury.
(k) Acquired immunodeficiency syndrome (AIDS).

(17) "Common dining and living space" means areas within the AFH that are available to all residents for living and dining.
(18) "Day" means calendar day, unless otherwise indicated.
(19) "Department" means the Wisconsin department of health services.
(20) "Dietary supplement" means a product that contains a dietary ingredient such as vitamins, minerals, herbs or other botanicals, amino acids, and substances such as enzymes, organ tissues, glandulars, and metabolites.
(22) "Employee" means any person who works for an AFH or for any other entity that provides services to residents by contract or other agreement with the AFH.
(23) "Habitable floor" means any floor level used by residents or other occupants of an AFH for sleeping, living, cooking, or dining, including a basement.
(24) "Habitable room" means any room used for sleeping, living, cooking, or dining.
(25) "Incapacitated," has the meaning given for "incapacity" in s. 155.01 (8), Stats.
(26) "Involuntary administration of psychotropic medication" has the meaning given in s. 55.14 (1) (a), Stats.
(27) "Legal representative" means any of the following:

(a) A health care agent under an activated power of attorney for health care under ch. 155, Stats.
(b) A person appointed as a durable power of attorney under ch. 244, Stats.
(c) A guardian, guardian of the estate, or guardian of the person, as defined in s. 54.01 (10), (11), or (12), Stats.

(28) "Licensee" means an individual or legal entity licensed to operate an AFH.
(29) (a) "Medication administration" means the injection, ingestion, or other application of a prescription or over-the-counter drug or device to a resident by a practitioner, the practitioner's authorized agent, AFH employees, or the resident, at the direction of the practitioner.
(b) "Medication administration" does not include reminders to take medication, assistance in drinking fluids to take medication, assistance with opening secure medication storage, or opening a medication package or container if the resident is temporarily unable to do so.
(30) "Misappropriation of property" has the meaning as given in s. DHS 13.03 (12).
(31) "Neglect" has the meaning as given in s. DHS 13.03 (14).
(32) "NFPA" means the National Fire Protection Association.
(33) "Non-ambulatory" means a person who is unable to walk, but who may be mobile with the help of a wheelchair or other mobility devices.
(34) "Nursing care" means nursing procedures, excluding personal care, which under ch. N 6, standards of practice for registered nurses and licensed practical nurses, may be performed only by a registered nurse or a licensed practical nurse directly on a resident.

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(35) "Occupant" means any of the following:

(a) A person who lives and sleeps in an AFH, but who is not a resident.

(b) A nonclient resident, as defined in s. 50.065 (1) (cn), Stats.

(36) "Personal care" means assistance with ADLs but does not include nursing care.

(37) "Pharmaceutical services" means pharmacist or pharmacy processes, including any of the following:

(a) Documenting, as applicable, receipt and interpreting a prescriber's orders.

(b) Acquiring, receiving storing, controlling, reconciling, compounding, for example intravenous antibiotics, dispensing, packaging, labeling, distributing, administering, monitoring responses to, using and/or disposing of all medications, biologicals, chemicals, for example povidone, iodine, hydrogen peroxide.

(c) Providing medication-related information to health care professionals and residents.

(d) Identifying, evaluating, and addressing medication-related issues, including the prevention and reporting of medication errors, and the provision, monitoring, or use of medication-related devices.

(38) "Pharmacist" means an individual licensed as a pharmacist under ch. 450, Stats.

(39) "Physician assistant" means an individual licensed under subch. IX of ch. 448, Stats.

(40) "Physical restraint" means any manual method, article, device, or garment interfering with the free movement of the resident or the normal functioning of a portion of the resident's body or normal access to a portion of the resident's body, and which the resident is unable to remove easily, or confinement of a resident in a locked room.

(41) "Practitioner" means an individual who is licensed in this state to prescribe and administer drugs or an individual who possesses a license or other credential in another state and whose license or other credential entitles the individual to prescribe and administer drugs to patients located in this state.

(42) "Practitioner's order" means any of the following:

(a) A written order that is mailed, faxed, or hand delivered from a practitioner.

(b) A medication administration record signed by a practitioner that is faxed, mailed, or hand delivered.

(c) A copy of a prescription that is faxed, mailed, or hand delivered by a pharmacist.

(d) A medication administration record signed by a pharmacist based on prescription orders signed by a practitioner the pharmacist has on file.

(e) An electronic order that is transmitted directly to an AFH's electronic health record

(f) A printed copy of the electronic order contained in a practitioner's electronic health record that is provided directly to an AFH from the provider and indicates the practitioner electronically signed the order.

(g) A printed copy of the electronic order from the pharmacy with evidence of signature.

(43) "Psychotropic medication" means a prescription drug, as defined in s. 450.01 (20), Stats., that is used to treat or manage a psychiatric symptom or challenging behavior.

(44) "Qualified resident care staff" means an employee who has successfully completed all of the applicable training and orientation under subch. IV.

(45) "Relative" means a spouse, parent, stepparent, child, stepchild, sibling, grandchild, grandparent, aunt, uncle, niece, or nephew.

(46) "Reside" means to remain in an AFH for more than 28 consecutive days.

(47) "Resident" means an adult, unrelated to the licensee, who resides in an AFH, and who receives care, treatment, or services in addition to room and board.

(48) "Resident care staff" means a licensee, an employee, or a volunteer who has one or more of the following responsibilities for a resident:

(a) Supervising a resident's activities or whereabouts.

(b) Managing or administering medications.

(c) Providing personal care or treatments.

(d) Planning or conducting activity programming.

(49) "Respite care" means temporary placement of an adult, unrelated to the licensee, in an AFH for no more than 28 consecutive days for care, treatment, or services as established by the primary care provider.

(50) "Room" means a space that is completely enclosed by walls and a ceiling.

(51) "Seclusion" means physical or social separation of a resident from others by actions of employees. "Seclusion" does not include separation to prevent the spread of communicable disease or voluntary cool-down periods in an unlocked room.

(52) "Semi-ambulatory" means a person is able to walk with difficulty or only with the assistance of an aid such as crutches, a cane, or a walker

(53) "Standard precautions" means a set of infection control practices used to prevent transmission of diseases that

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can be acquired by contact with blood, body fluids, non-intact skin, and mucous membranes.
(54) "Supervision" means oversight by a resident care staff of a resident's daily functioning, keeping track of a resident's location, or providing guidance or intervention when needed by a resident.
(55) "Terminal illness" means a medical prognosis issued in writing by a physician or other qualified medical professional that an individual's life expectancy is less than 12 months.
(56) "Therapeutic diet" means a diet ordered by a physician or other authorized medical professional that is part of treatment for a disease or clinical condition to eliminate, decrease, or increase specific nutrients in the diet, or to provide mechanically altered food when indicated.
(57) "Transferee" means the recipient of a property or business in a change of ownership process who will submit an application for a new license.
(58) "Transferor" means the current licensee in a change of ownership process who voluntarily relinquishes their current license.
(59) "Variance" means an alternative means of meeting a requirement in this chapter, as approved by the department under s. DHS 88.03.
(60) "Volunteer" means any person who provides services for residents without compensation, except for reimbursement of expenses related to the services provided by the AFH.
(61) "Waiver" means an exemption from a requirement in this chapter, as approved by the department under s. DHS 88.03.

DHS 88.03 Variance and waiver.
(1) EXCEPTION TO A REQUIREMENT. An AFH may apply for a waiver or variance to any requirement in this chapter except a resident right under s. DHS 88.30. The department may grant an application for waiver or variance if it determines that the waiver or variance will not adversely affect the health, safety, welfare, or rights of any resident.
(2) APPLICATIONS.

(a) All applications for waiver or variance from any requirements of this chapter shall be made in writing to the department and shall specify all of the following:

1. The rule from which the waiver or variance is requested.
2. The time period for which the waiver or variance is requested.
3. If the request is for a variance, the specific alternative action which the AFH proposes.
4. The reasons for the request.
5. The rationale, including evidence, that the waiver or variance will not adversely affect the health, safety, welfare, or rights of any resident.

(b) Requests for a waiver or variance may be made at any time.
(c) The department may require additional information from the AFH prior to acting on the request.

(3) GRANTS AND DENIALS.

(a) The department shall grant or deny each request for waiver or variance in writing within 60 days after receipt of a complete application. Any denials under this paragraph shall contain the reasons for denial.
(b) The terms of a requested variance may be modified upon agreement between the department and the AFH.
(c) The department may impose such conditions on the granting of a waiver or variance that it deems necessary.
(d) The department may limit the duration of any waiver or variance.

(4) REVOCATION. The department may revoke a waiver or variance if any of the following occur:

(a) The department determines that the waiver or variance has adversely affected the health, safety, welfare, or rights of any residents.
(b) The department determines that the AFH has failed to comply with the waiver or variance as granted.
(c) The department determines that there has been a change in material circumstances from the time that the waiver or variance was initially granted and the waiver or variance is no longer justified.
(d) The department determines that the AFH failed to disclose a fact that is material to the approval.
(e) The AFH notifies the department in writing that it wishes to relinquish the waiver or variance.

Subchapter II — Licensing

DHS 88.04 Licensing classifications and general requirements.
(1) The department shall classify each AFH licensed by the department as a class A, class B or class C AFH.

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(2)

(a) *Class A*. A class A AFH may only serve residents who are ambulatory and who are mentally and physically capable of responding to a fire alarm by exiting the AFH without any verbal or physical prompting in 2 minutes or less.

(b) *Class B*. A class B AFH may serve any of the following:

1. Residents who are ambulatory or semi−ambulatory and who are capable of responding to a fire alarm by exiting the AFH with an evacuation time up to 4 minutes without verbal or physical prompting.

2. Residents who are ambulatory or semi-ambulatory and who are capable of responding to a fire alarm by exiting the AFH with an evacuation time up to 4 minutes with verbal or physical prompting.

(c) *Class C*. A class C AFH may serve any of the following:

1. Residents who are non-ambulatory, ambulatory, or semi−ambulatory and who are capable of responding to a fire alarm by exiting the AFH with an evacuation time of 4 minutes or more without verbal or physical prompting.

2. Residents who are non-ambulatory, ambulatory, or semi-ambulatory, and who are capable of responding to a fire alarm by exiting the AFH with an evacuation time of 4 minutes or more with verbal or physical prompting.

(3) An AFH that is a class B or class C shall locate the bedroom, bathroom, and any common living areas for any resident who is semi-ambulatory on the first floor. An AFH that is a class C AFH shall locate the bedroom, bathroom, and any common living areas for any resident who is non-ambulatory on the first floor.

(4)

(a) A licensed AFH shall be located in a residential area that is typical of residential areas in the community and that allows easy access to community activities and supportive services.

(b) A licensed AFH may be located on a parcel of land zoned for mixed-use occupancy.

(c) A licensed AFH may not be located on a parcel of land zoned only for commercial, industrial, or manufacturing use.

DHS 88.05 Application requirements.

(1) No person may conduct, maintain, or operate an AFH unless it is licensed by the department. A person who assumes ownership interest in a licensed AFH, regardless of whether the transfer includes title to the real estate, or a person who changes the location of the AFH shall complete an application as required under this section.

(2) An application for licensure shall be submitted through a web-based system established by the department and shall include all of the following:

(a) A program statement as specified under s. DHS 88.06 (1).

(b) A floor plan specifying dimensions of the AFH, including exits, planned room usage, and required door widths, as specified under s. DHS 88.49.

(c) All required fees as specified under s. 50.033 (2) Stats.

(d) A current balance sheet.

(e) Evidence that the applicant has 60 days of projected operating funds in reserve.

(f) Proof of transportation liability insurance if the AFH provides transportation.

(g) Evidence that the applicant has in effect coverage under a homeowner's or renter's insurance policy.

(h) Well water test results if the AFH does not use a public water supply.

(i) A program evaluation plan as specified under s. DHS 88.36 (5).

(j) Any additional information requested by the department.

(k) A provider agreement form signed and dated by an authorized representative of the AFH to agree to receive the results of a survey including statements of deficiency and to agree to submit a plan of correction, when required, through email or a web-based system established by the department.

(L) Evidence that the applicant will qualify under s. DHS 88.14 (1).

(**3**) If an applicant for licensure is a legal entity, then the applicant shall designate an individual who shall meet the requirements under s. DHS 88.14 (1).

DHS 88.06 Program statement.

(1) CONTENT. A program statement shall include all of the following:

(a) The name of the licensee, and the staff position in charge when the licensee is away from the AFH.

(b) Resident care staff availability, including 24-hour staffing patterns, and the availability of a licensed

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nurse, if any.

(c) The resident capacity of the AFH.

(d) The licensure class of the AFH under s. DHS 88.04, including the designation of each bedroom with the resident mobility and cognitive requirements.

(e) The client group to be served. If serving more than one client group, the program statement shall include an explanation of how the client groups are compatible. The program statement shall include how the AFH will meet the physical, social, behavioral, and safety needs of each client group.

(f) A brief description of the home, its location, the services available, and who provides the available services.

(g) Limitations of services, including the criteria for determining who may reside in the AFH.

(h) Respite care services, if provided.

(i) Limited health services as defined in s. DHS 88.36 (3), if provided.

(j) Sources of payment accepted.

(2) AVAILABILITY.

(a) Before finalizing an agreement to provide care, the AFH shall provide its program statement to each person seeking placement or to the person's legal representative.

(b) The program statement shall be available to employees, residents, and any other person upon request.

(3) CHANGE IN PROGRAM STATEMENT.

(a) The licensee shall report any change in client group in writing to the department and may not implement the change until the licensee receives written approval from the department.

(b) The licensee shall report any change in capacity or class to the department and may not implement the change until the licensee receives written approval from the department.

(c) The licensee shall provide a written notice to each resident, or the resident's legal representative, and referral agency 30 days prior to any change in size, class, client group, grievance procedure, or sources of payment accepted.

DHS 88.07 Eligibility determination.

(1) ELIGIBILITY. An applicant may not be licensed as an AFH unless the department determines that the applicant is eligible to operate an AFH.

(2) NEW APPLICANTS. To determine whether an applicant for an initial license as an AFH is eligible under sub. (1), the department shall consider all of the following:

(a) Whether the individual applicant, any legal representative for the applicant if the applicant does not have a single owner, or any nonclient residents, as defined in s. 50.065 (1) (cn), Stats., meet the requirements of ch. DHS 12 and s. 50.065, Stats.

(b) The applicant's compliance history with Wisconsin or any other state or federal licensing or certification requirements, including any license revocation or denial.

(c) The applicant's arrest and criminal records, including any of the following:

1. Allegations of abuse, financial exploitation, neglect, or self-neglect subject to elder abuse reporting under s. 46.90, Stats

2. Charges or convictions related to the manufacture, distribution, use, or dispensing of a controlled substance.

3. Fraud or substantial or repeated violations of applicable laws and rules in the operation of any health care center or in the care of dependent persons.

4. A conviction or pending criminal charge which substantially relates to the care of adults or minors, to the funds or property of adults or minors, or to the operation of a residential or health care center.

(d) The financial history and the financial viability of the applicant or the applicant's organization, including any outstanding debts, fees, or fines due to the department or other government agencies.

(3) CURRENT LICENSEES. If the department determines that there is evidence that a licensee is financially insecure, noncompliant with applicable licensing regulations, or subject to pending criminal charges, the department may conduct an eligibility review of the licensee in accordance with this section. If the department determines that a licensee is no longer eligible under sub. (1) to operate an AFH, the department shall take action as provided in s. DHS 88.08 (4).

DHS 88.08 Department action.

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(1) INITIAL LICENSE.

(a) Within 70 days after receipt of a complete application, the department shall either approve or deny the license.

(b) A license issued by the department shall be only for the premises and persons named in the application. A license may not be transferred or assigned to another person unless the transfer is consistent with the requirements under s. DHS 88.10.

(c) A license is valid until suspended or revoked by the department.

(2) LICENSE DENIAL. The department shall deny a license to any applicant who does not substantially comply with any requirements for licensed AFHs in this chapter or ch. 50, Stats.

(3) MONITORING.

(a) The department may, without notice, visit an AFH at any time to inspect the status of resident health, safety, or welfare or to determine if the AFH continues to comply with requirements for licensed AFHs in this chapter and ch. 50, Stats. The licensee shall permit the department representative to enter the AFH.

(b) Licensees shall comply with all department requests for information about residents, employees, services, or operation of the AFH related to this chapter and with all laws governing the AFH on the day of the inspection. The licensee shall make any requested information available to the department within the next business day.

(c) The department may require a licensee to provide proof of building, fire, health, sanitation, or safety inspection of the premises to document compliance with this chapter and with other applicable statutes, ordinances, rules, and regulations. A required inspection shall be performed by a qualified professional as determined by the department. Any inspection shall be at the licensee's expense.

(4) ACTION TO ENFORCE THIS CHAPTER. The department shall issue a written notice of violation if it finds that an AFH is in violation of any requirements for AFHs in this chapter or ch. 50, Stats., or if it finds, following an eligibility review under s. DHS 88.07 (3), that a licensee is no longer eligible to operate an AFH. The notice shall explain the grounds for the notice of violation, any sanctions to be imposed, and the process for appeal, if applicable. Based on the nature of the violations found, the department may do one or more of following:

(a) *Request* a *plan of correction*. If requested by the department, an AFH shall submit a written plan of correction to the department within 10 business days after the date of receipt of the notice of violation. The department may require modifications to an AFH's proposed plan of correction at any time.

(b) *Place limits on the client groups served*. At any time following notice of violation to the licensee, the department may modify a license by limiting the client groups served by an AFH or the number of residents served by an AFH. Licenses may be modified by limiting the client groups served for any of the following reasons:

1. The client groups are not compatible based upon department review.
2. The licensee and service providers do not have the appropriate training to serve the residents or client groups.
3. The licensee is unable to demonstrate that the needs of residents as identified in their individual service plans under s. DHS 88.33 (4) are being met.

(c) *Place conditions on the license*. The department may place a condition on a license if the department finds that a condition or occurrence relating to the operation and maintenance of the AFH directly threatens the health, safety, or welfare of a resident.

(d) *Revoke the license*. The department may revoke an AFH's license following procedures in ch. 227, Stats., when the department determines that the home has intentionally and substantially violated a requirement of this chapter or ch. 50, Stats., or fails to meet the minimum requirements for licensure. The department shall give the licensee written notice of revocation and the grounds for the revocation and shall inform the licensee of the right to appeal that decision under sub. (5).

(e) *Suspend the license*. The department may summarily suspend a license following procedures in ch. 227, Stats., when it finds there is imminent danger to the health, safety, or welfare of the residents in care. A finding of imminent danger includes any of the following:

1. Failure of the licensee to provide environmental protections such as heat, water, electricity, or telephone service.
2. The licensee, a service provider, or any other person affiliated with or living in the AFH or who has contact with residents has been convicted of or has a pending charge for a crime against life or for a crime that caused bodily harm.
3. The licensee, a service provider, any other occupant living in the AFH, or any individual

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who has contact with residents has been convicted of a felony, misdemeanor, or other offense or has a pending criminal charge which is substantially related to the care of the residents or activities of the home.

4. The licensee, a service provider, any other occupant living in the AFH, or any individual who has contact with residents is the subject of a current investigation of alleged abuse or neglect of a resident.

(f) *Seek an injunction*. Pursuant to s. 50.033 (5), Stats., the department may commence an action in circuit court to enjoin the operation of an AFH that is not licensed under this chapter, that is licensed and has repeatedly used methods of operation in substantial violation of this chapter, or that endangers the health, safety, or welfare of any adult receiving care and maintenance in the home.

(g) *Issue sanctions*. The department may order one or more of the following sanctions:

1. That the licensee stop violating the applicable provisions of this chapter.

2. That the licensee comply with a plan of correction developed and imposed by the department.

3. That the licensee stop admissions until the violations are corrected and correction is verified by the department.

4. That the licensee provide or secure training for the licensee or employees as specified by the department.

5. That payment be disallowed for services provided during the period of noncompliance.

(h) *Penalties*. Pursuant to s. 50.033 (6), Stats., any person who violates s. 50.033, Stats., or this chapter may be fined not more than $500, imprisoned for not more than one year in the county jail, or both.

(5) APPEALS.

(a) Any person whose application for a license is denied under sub. (2), whose license is revoked under sub. (4) (d), or whose license is suspended under sub. (4) (e) may request a hearing on that decision under s. 227.42, Stats.

(b) A request for a hearing shall be in writing and shall be filed with the department of administration's division of hearings and appeals and shall be sent to that office so that it is received there within 10 days after receipt of the notice under sub. (2) or (4).

DHS 88.09 Reporting requirements and fees.

(1) Every 24 months, on a date determined by the department, a licensee shall submit a biennial report through a web-based system established by department and shall submit payment of the license continuation fees as specified under s. 50.033 (2) Stats. The biennial report shall include information regarding resident census and conditions of residents as requested from the department.

(2) A licensee shall submit a report through a web-based system established by the department with information regarding the current assessed needs of each resident. A report under this subsection shall be submitted to the department within 2 weeks from the date that the resident assessment is completed as required under s. DHS 88.33 (2) (a).

DHS 88.10 Change of ownership.

(1) When an AFH seeks a change of ownership, the transferor shall notify the department at least 60 days prior to a change of ownership of the AFH, and shall include the name and contact information of the transferee. A license may not be transferred or reassigned without following the change of ownership provisions in this section.

(2) The transferee shall submit a complete application for licensure as required under s. DHS 88.05 (2) at least 60 days prior to the change of ownership.

(3) The transferor remains responsible for the operation of the AFH until the department issues a license to the transferee, unless the AFH voluntarily closes and relocates all residents.

(4) The transferor shall disclose to the transferee any waiver or variance granted by the department under s. DHS 88.03 and any outstanding deficiencies. The transferee may apply for the approval of any existing waivers or variances, in accordance with s. DHS 88.03. Any waiver or variance requested by the transferee may be submitted with the application for licensure and shall be reviewed by the department so a determination under s. DHS 88.03 can be made prior to a change in licensure.

(5) Any violation reported in a department inspection report shall be substantially corrected prior to the change of ownership. Any correction shall be verified by the department prior to the issuance of the license to the transferee.

(6) The transferor shall follow the requirements for transferring financial responsibility under s. DHS 88.32 (6).

(7) The transferor shall notify each resident or resident's legal representative no less than 7 days in advance of the

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transfer of ownership.
(8) If a resident, or their legal representative, is given less than 30 days' notice of the change of ownership, neither the transferor nor the transferee may enforce any advanced notice requirements for discharge as specified in any resident's admission agreement, in accordance with s. DHS 88.28 (2) (d).
(9) The department shall issue a license only for the premises and persons named in the license application.
(10) The licensee shall notify the department in writing at least 30 days before the effective date of any of the following changes:

(a) If the licensee is a partnership, dissolving the existing partnership and creating a new partnership.

(b) If the licensee is a corporation, making a change in corporate structure under which the same corporation no longer continues to be responsible for making operational decisions or for the consequences of those decisions.

DHS 88.11 Closure and relocation planning.
(1) NOTICE OF CLOSURE. An AFH that intends to close shall notify the department, each resident or their legal representative, and each resident's case manager, if any, in writing at least 60 days before closing. The notice shall include 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 a developmental disability or mental illness, the notice shall include the address and telephone number of the protection and advocacy agency, Disability Rights Wisconsin.
(2) RELOCATION PLANNING. Prior to closing, an AFH shall do all of the following:

(a) Notify the department of its intent to close and submit a list of the residents to be relocated, the name of their legal representative, if any, and the name of their managed care organization, if any.

(b) Conduct a planning conference to develop an individual relocation plan with each resident, each resident's legal representative, if any, each resident's case manager, if any, and a member of each resident's family, if practicable, unless the resident requests that a family member not be present.

(c) Ensure that each resident, in a manner appropriate for the resident's level of understanding and method of communication, is involved in planning the relocation and given the opportunity to choose for themselves from among the available alternative placements.

(d) Provide each resident with an opportunity to visit potential alternative placements prior to relocation.

(e) Coordinate transfer of each resident and their belongings to the new placement.

(3) SURRENDER OF LICENSE. A licensed AFH shall surrender its license to the department when any of the following occur:

(a) The AFH closes.

(b) The AFH has not served any residents at the AFH location for 24 months.

Note: For emergency and disaster relocation requirements, see s. DHS 88.51 (3).

DHS 88.12 Investigation, notification, and reporting requirements.
(1) DEFINITIONS. In this section:

(a) "Serious injury" means an injury from any incident or accident that results in any of the following:

1. A temporary or permanent decline in one or more ADLs.
2. A fracture of a bone.
3. A pronounced decline in communication or cognitive abilities.
4. A burn to the body.
5. A laceration that requires stitches or staples.

(b) "Significant change in a resident's physical or mental capabilities" means any of the following:

1. A decline in 2 or more ADLs.
2. A pronounced decline in communication or cognitive abilities.
3. A decline in behavior or mood that requires either a temporary or permanent increase in the level of assistance needed in one or more ADL categories, such as bathing, eating, oral hygiene, dressing, toileting, incontinence care, or mobility and transferring.
4. A significant improvement in any of the conditions in subd. 1. to 3.

(**2**) DEATH REPORTING.

(a) When a resident dies as a result of an incident or accident related to the use of a physical restraint, psychotropic medication, or suicide, the AFH shall report the death to the department no later than 24 hours

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after the resident's death using a web-based application provided by the department.

(b) When a resident dies as a result of an incident or accident not related to the use of a physical restraint, psychotropic medication, or suicide, the AFH shall report the death to the department no later than 3 days after the resident's death.

(c) An AFH is not required to report a death to the department under this subsection if the death is the result of natural causes, and none of the circumstances surrounding the death involve a condition under par. (a) or (b).

(3) MISCONDUCT REPORTING. When an AFH becomes aware of an allegation or incident of resident abuse, resident neglect, or misappropriation of resident property, the AFH shall do all of the following:

(a) Take immediate action to ensure the safety of each resident and the security of their property.

(b) Report all allegations of caregiver misconduct as required by ch. DHS 13 and s. 146.40, Stats., and use the web-based reporting application provided by the department.

Note: Information about how to report misconduct is available at https://www.dhs.wisconsin.gov/misconduct/reporting.htm

(4) ELDER ABUSE AND ADULTS-AT-RISK REPORTING. An AFH shall follow the elder abuse reporting requirements under s. 46.90, Stats., and the adult at risk reporting requirements under s. 55.043, Stats., whichever is applicable.

(5) INJURIES OF UNKNOWN SOURCE**.**

(a) When an AFH receives a report of a resident's injury with an unknown cause, the AFH shall thoroughly investigate, document, and report the injury of unknown source in a manner consistent with the requirements under subs. (3) and (4) if both of the following conditions are satisfied:

1. The source of the injury was not observed by any person or the source of the injury could not be explained by the resident.

2. The injury appears suspicious because of the extent of the injury or the location of the injury on the resident.

(b) The AFH shall maintain documentation for each investigation of an injury under this subsection.

(6) OTHER REPORTING REQUIREMENTS. An AFH shall send a written report to the department within 3 business days after any of the following occurs that shall provide the circumstances of the occurrence and any other information required by the department under this section:

(a) Any time a resident's whereabouts are unknown to the AFH, unless the resident is competent and chose not to disclose his or her whereabouts or location to the AFH. The AFH shall also notify the local law enforcement authority immediately upon discovering that a resident is missing.

(b) Any time law enforcement is called to the AFH in response to an incident that jeopardizes the health, safety, or welfare of a resident or employee. The AFH's report to the department shall provide a description of the circumstances that required law enforcement intervention.

(c) Any incident or accident resulting in serious injury requiring hospital admission or emergency room treatment of a resident.

(d) An incident or accident causes structural damage to the AFH that results in any change in services provided to the residents.

(e) A fire occurs on the premises of the AFH.

(f) The AFH evacuates and temporarily relocates residents and employees from the AFH for reasons other than a fire drill.

(g) A restraint is used in an emergency on a resident to protect the resident or another individual from significant risk of physical injury. The AFH shall document the incident, the actions taken by the AFH, and the outcome.

(7) NOTIFICATION OF CHANGES AFFECTING A RESIDENT.

(a) An AFH shall immediately notify a resident's legal representative and the resident's physician and document the notification when there is a serious injury to the resident or a significant change in the resident's physical or mental condition.

(b) An AFH shall immediately notify a resident's legal representative and document the notification when there is an allegation of abuse or neglect of the resident, when a resident experiences a fall incident, or when a resident's whereabouts are unknown to the AFH.

(c) An AFH shall notify a resident's legal representative within 3 days when there is an allegation of misappropriation of property of the resident and document the notification.

(8) OTHER DUTIES. Filing a report under sub. (3) or (4) of this section does not relieve the licensee of any obligation

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to report an incident to any other authority, including law enforcement or a coroner or medical examiner.
(9) DOCUMENTATION REQUIREMENT. All written reports required under this section shall include all of the following:

(a) The time, date, place, and details of the occurrence.
(b) Any individuals involved in the occurrence.
(c) Any action taken by the AFH to ensure the health, safety, welfare, and well-being of each resident following the occurrence.

DHS 88.13 Record retention. An AFH shall retain all records required under this chapter for 2 years, except for the following:
(1) Resident records shall be retained for 7 years following the date of a resident's final discharge.
(2) Respite care records shall be retained for 7 years following the date of the person's discharge.
(3) Employee records shall be retained for 3 years following an employee's separation from employment.
(4) Any other records for which this chapter provides a different retention period shall be retained for that period.

Subchapter III — Personnel

DHS 88.14 Licensee.
(1) QUALIFICATIONS.

(a) A licensee, or if the licensee is a legal entity, then the individual designated under s. DHS 88.05 (3), shall be at least 21 years of age and exhibit the capacity to respond to the needs of the residents and manage the complexity of the AFH.
(b) A licensee shall be considered eligible by the department under s. DHS 88.07.
(c) A licensee shall complete the background check requirements under s. 50.065, Stats., and ch. DHS 12. A licensee shall complete a background check at least every 2 years.

Note: More information about background checks for licensees is available at https://www.dhs.wisconsin.gov/misconduct/entity.htm

(d) A licensee shall have at least one of the following qualifications:

1. An associate degree or higher from an accredited college in a healthcare-related field.
2. A bachelor's degree in a field other than in healthcare from an accredited college and one year experience working in a healthcare-related field having direct contact with one or more of the client groups identified under s. DHS 88.02 (16).
3. At least 2 years' experience working in a healthcare-related field having direct contact with one or more of the client groups identified under s. DHS 88.02 (16) and successful completion of an assisted living licensee's training course approved by the department or the department's designee.
4. A valid nursing home administrator's license issued by the department of safety and professional services.

(2) RESPONSIBILITIES. A licensee shall do all of the following:

(a) Ensure the AFH and its operation comply with this chapter and with all laws governing the AFH.
(b) Supervise the daily operation of the AFH, including resident care and services, personnel, finances, and physical plant.
(c) Provide the supervision necessary to ensure that each resident receives proper care and treatment, that their health and safety are protected and promoted, and that their rights are respected.
(d) Be responsible for the training and competency of each employee.
(e) Designate a qualified resident care staff as in charge whenever the licensee is absent from the AFH.
(f) Ensure the home is not used for any business purpose that regularly brings customers to the home and adversely affects the residents' use of the home as their residence or the residents' privacy.
(g) Provide, in a format approved by the department, information required by the department to assess the AFH's compliance with s. 55.14, Stats., relating to involuntary administration of psychotropic medication to a resident.
(h) Inform all current or prospective residents, legal representatives, case managers, or family members, that the results of any department statement of deficiency, notice of revocation, any other notice of enforcement, licensing survey, complaint, verification, or monitoring visits for the preceding 2 years are

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available at the AFH upon request.

(i) Prohibit the existence or continuation of any condition that is or may create a substantial risk to the health, safety, or welfare of any resident.

(j) Ensure that at least one copy of an up-to-date version of ch. DHS 88 is in the home at all times and is available for review by any resident, any resident's guardian or designated representative, or any employee.

(3) EXEMPTIONS. Subsection (1) does not apply to a licensee who possesses a license as an AFH on the effective date of this subsection ... [LRB inserts date] for as long as the licensee's license remains in effect.

DHS 88.15 Employees.

(1) A licensee shall ensure each employee has the skills, education, experience, and ability to fulfill the employee's job requirements.

(2) Except as provided in sub. (3), resident care staff shall be at least 18 years old.

(3) An AFH may employ a resident care staff who is 16 or 17 years of age if the AFH ensures all of the following:

(a) The minor receives orientation and all applicable training under subch. IV.

(b) The minor is only scheduled to work with a qualified resident care staff and will not work alone.

(c) The minor does not administer medications.

(d) The minor complies with current standards from the U.S. Department of Labor's Wage and Hour Division for the operation of power-driven patient lift equipment.

DHS 88.16 Hiring and employment.

(1) EMPLOYEE AND CONTRACTOR BACKGROUND CHECKS. The AFH shall obtain a background check pursuant to s. 50.065, Stats., and ch. DHS 12, for all of the following:

(a) Any person who is, or is expected to be, an employee or contractor of the AFH.

(b) Any person who is expected to be under the control of the AFH and who is expected to have regular, direct contact with residents.

(2) EMPLOYEE HEALTH COMMUNICABLE DISEASE CONTROL.

(a) The AFH shall obtain documentation from a physician, physician assistant, advance practice nurse or a licensed registered nurse indicating each employee has been screened for clinically apparent communicable diseases including tuberculosis. Screening for tuberculosis shall be conducted in accordance with centers for disease control and prevention standards. The screening and documentation shall be completed no sooner than 90 days before the start of employment or before assumption of duties resulting in direct contact with residents. The AFH shall keep screening documentation confidential, except the department shall have access to the screening documentation for verification purposes.

(b) Employees shall be re-screened for clinically apparent communicable diseases as described in par. (a) of this subsection based on the likelihood of exposure to communicable diseases, including tuberculosis.

(c) A person who has a communicable disease shall not be permitted to work or be present in the AFH if the disease would present a risk to the health or safety of any resident. The employee's return to work shall be in accordance with the guidance from the centers for disease control and prevention or the local public health department.

DHS 88.17 Employee records. An AFH shall maintain a separate record for each employee and shall keep each employee record current. Employee records shall include all of the following information:

(1) A written job description including duties, responsibilities and qualifications required for the employee.

(2) Beginning date of employment.

(3) A completed background check following procedures under s. 50.065, Stats. and ch. DHS 12.

(4) Documentation of the employee's orientation and training, or documentation of an exemption to orientation or training.

Subchapter IV — Orientation and Training

DHS 88.18 Orientation. All employees shall receive orientation training before assumption of duties in which the employee will have direct contact with residents. Orientation training shall include, at a minimum, all of the following:

(1) Job responsibilities.

(2) Prevention and reporting of resident abuse, neglect, and misappropriation of resident property.

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(3) Information regarding assessed needs and individual services for each resident for whom the employee is responsible.
(4) Emergency and disaster plan and evacuation procedures as specified under s. DHS 88.50 and 88.51.
(5) AFH policies and procedures.
(6) Recognizing and responding to resident changes of condition.
(7) Information regarding the general rights of residents as specified under s. DHS 88.30. Specific training topics shall include house rules, coercion, retaliation, confidentiality, restraints, self-determination, and the AFH's complaint and grievance procedures.
(8) The use of person-centered care approaches.
(9) Roles, responsibilities, and limitations of legal guardians, power of attorney agents, and supported decision-makers.

DHS 88.19 Department-approved training.
(1) APPROVED TRAINING.

(a) Training specified in sub. (2) shall be approved by the department or designee and shall be provided by trainers approved by the department or designee.

(b) An AFH shall maintain documentation of the training in par. (a), including the trainer approval number, the name of the employee, training topic and the date training was completed.

(2) REQUIRED TRAINING COURSES.

(a) *Standard precautions*. All employees who may be occupationally exposed to blood, body fluids or other moist body substances, including mucous membranes, non-intact skin, secretions, and excretions except sweat, whether or not they contain visible blood shall successfully complete training in standard precautions before the employee assumes any responsibilities that may expose the employee to such material.

(b) *Fire safety*. Within 90 days after starting employment, all employees shall successfully complete training in fire safety.

(c) *First aid and choking*. Within 90 days after starting employment, all employees shall successfully complete training in first aid and procedures to alleviate choking.

(d) *Medication administration and management*. Any employee who manages, administers, or assists residents with prescribed or over-the-counter medications shall complete training in medication administration and management prior to assuming these job duties.

DHS 88.20 All-employee training. An AFH shall provide, obtain, or otherwise ensure training for all employees of the AFH in all the areas described under this section within 90 days after starting employment:
(1) CLIENT GROUP. Employees shall receive training in the physical, social, and mental health needs for each client group listed on the AFH license. Specific training topics shall include all of the following, as applicable:

(a) Characteristics of each client group.
(b) Activity needs including community inclusion and integration.
(c) Safety risks and environmental considerations.
(d) Disease processes.
(e) Communication skills.
(f) Nutritional needs.
(g) Vocational abilities.

(2) RECOGNIZING, PREVENTING, MANAGING, AND RESPONDING TO CHALLENGING BEHAVIORS. Employees shall receive training in the behavioral health needs of the client groups served at the AFH. Specific training topics shall include all of the following, as applicable:

(a) Elopement behavior.
(b) Physical or verbal aggressive behavior toward others.
(c) Destruction of property.
(d) Suicidal behavior and prevention.
(e) Self-injurious behavior.
(f) Resident supervision needs.
(g) Changes in condition.

DHS 88.21 Task-specific training.

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(1) PROVISION OF PERSONAL CARE. An AFH shall provide, obtain, or otherwise ensure that all employees who are responsible for providing assistance with ADLs successfully complete training on the provision of personal care prior to assuming these job duties. Specific training topics shall include the following, as applicable:

(a) Assistance with bathing.
(b) Assistance with eating and oral hygiene.
(c) Assistance with dressing.
(d) Assistance with nail and foot care.
(e) Assistance with toileting and incontinence care.
(f) Assistance with positioning and body alignment.
(g) Assistance with mobility and transferring.

(2) DIETARY TRAINING. An AFH shall provide, obtain, or otherwise ensure that all employees who perform dietary duties successfully complete training on performing dietary duties within 90 days after assuming these job duties. Specific training topics shall include the following, as applicable:

(a) Determining nutritional needs of the resident.
(b) Developing a nutritionally balanced menu.
(c) Preparing and storing food to prevent foodborne illnesses.
(d) Cleaning and sanitizing food contact surfaces and utensils.

(3) ASSESSMENT OF RESIDENTS. An AFH shall provide, obtain, or otherwise ensure that all employees responsible for conducting a resident assessment as specified under s. DHS 88.33 successfully complete training in the assessment of residents prior to assuming these job duties. Specific training topics shall include all of the following:

(a) Person-centered assessment methodology.
(b) Identification and reporting of changes in condition.
(c) Sources of assessment information.
(d) Documentation of the assessment.

(4) INDIVIDUAL SERVICE PLAN DEVELOPMENT. An AFH shall provide, obtain, or otherwise ensure that all employees responsible for service plan development successfully complete training in individual service plan development prior to assuming these job duties. Specific training topics shall include all of the following:

(a) Person-centered care planning to identify the resident's unique needs, preferences, and desired outcomes.
(b) Goal development and identification of required supports and resources to achieve goals.
(c) Service plan evaluation and progress review.

DHS 88.22 Employee supervision. Until an employee has completed all of the training required under this subchapter, the employee shall be supervised by the licensee or by a qualified resident care staff who is on the premises of the AFH.

DHS 88.23 Exemptions.

(1) DEFINITIONS. In this section:

(a) "Emergency medical services practitioner" has the meaning given for "EMS professional" in s. DHS 110.04 (24).
(b) "Firefighter" means an individual who meets the minimum training and education standards under s. SPS 330.08 (1).
(c) "Licensed nursing home administrator" means an individual licensed under ch. NHA 4.
(d) "Certified direct care professional" means an individual who completed the department's online training course and met testing standards to be placed on the certified direct care professional registry.

(2) EXEMPTIONS FOR CURRENT STAFF.

(a) Subject to par. (b), an employee who is employed by an AFH on the effective date of this paragraph …. [LRB inserts date] shall be exempt from required training under ss. DHS 88.18, 88.19, 88.20, and 88.21.
(b) An employee to whom par. (a) applies shall complete training as required in ss. DHS 88.18, 88.19, 88.20, and 88.21 if the employee leaves employment at the AFH described in par. (a) and subsequently begins employment at an AFH.
(c) An employee to whom par. (a) applies shall be considered meeting the requirements of a qualified resident care staff as defined under s. DHS 88.02 (44).

(3) EXEMPTIONS FOR PREVIOUSLY COMPLETED TRAINING. An employee who has completed department-approved training in standard precautions, fire safety, first aid and choking, and medication administration and management and

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are listed on the Wisconsin community-based care and treatment registry prior to the effective date of this subsection …. [LRB inserts date] shall be exempt from the training requirement under s. DHS 88.19 (2) (a) to (d).

(4) EXEMPTIONS FROM STANDARD PRECAUTIONS TRAINING. Subject to sub. (3), the following individuals are exempt from required training in standard precautions under s. DHS 88.19 (2) (a):

(a) A practitioner, licensed pharmacist, registered nurse, or licensed practical nurse.

(b) An emergency medical services practitioner.

(c) An employee who can provide documentation they have had training from a regulated health care entity in the practice of standard precautions within the previous year.

(d) A nurse aide in good standing on the Wisconsin nurse aide registry.

(5) EXEMPTIONS FROM FIRE SAFETY TRAINING. Subject to sub. (3), a firefighter is exempt from required training in fire safety under s. DHS 88.19 (2) (b).

(6) EXEMPTIONS FROM FIRST AID AND CHOKING TRAINING. Subject to sub. (3), the following individuals are exempt from required training in first aid and choking under DHS 88.19 (2) (c):

(a) A practitioner, licensed pharmacist, registered nurse, or licensed practical nurse.

(b) An emergency medical services practitioner.

(c) A student nurse currently enrolled in a nursing program who has successfully completed related training meeting the standards in the department approved training program.

(7) EXEMPTIONS FROM MEDICATION ADMINISTRATION AND MANAGEMENT TRAINING. Subject to sub. (3), the following individuals are exempt from required medication administration and management training under s. DHS 88.19 (2) (d):

(a) A practitioner, licensed pharmacist, registered nurse, or licensed practical nurse.

(b) A nurse aide who has completed a medication aide training program and is in good standing on the Wisconsin nurse aide registry.

(c) A student nurse currently enrolled in a nursing program that has successfully completed a medication administration course meeting the standards under s. DHS 129.24.

(d) Any other licensed health care person whose licensure and scope of practice allows medication administration.

(8) EXEMPTIONS FROM CLIENT GROUP TRAINING AND CHALLENGING BEHAVIOR TRAINING. All of the following individuals are exempt from required client group training and challenging behavior training under s. DHS 88.20:

(a) A practitioner, licensed pharmacist, registered nurse, or licensed practical nurse.

(b) A licensed nursing home administrator.

(c) A substance abuse counselor as defined under s. SPS 160.02 (26).

(d) An employee with an associate degree or higher from an accredited college in social work, psychology, or a similar human services field.

(e) A student nurse currently enrolled in a nursing program who has successfully completed related courses meeting the requirements under this subchapter.

(f) A nurse aide in good standing on the Wisconsin nurse aide registry.

(9) EXEMPTIONS FROM PROVISION OF PERSONAL CARE TRAINING. All of the following individuals are exempt from required training on the provision of personal care under s. DHS 88.21 (1).

(a) A practitioner, registered nurse, or licensed practical nurse.

(b) A nurse aide in good standing on the Wisconsin nurse aide registry.

(c) An employee who can provide documentation they have had training from a regulated health care entity in the provision of personal care as listed in s. DHS 88.21 (1).

(d) A certified direct care professional.

(10) EXEMPTIONS FROM ASSESSMENT AND INDIVIDUAL SERVICE PLAN DEVELOPMENT TRAINING. All of the following individuals are exempt from required assessment and individual service plan development training under s. DHS 88.21 (3) and (4):

(a) A practitioner, licensed pharmacist, registered nurse, or licensed practical nurse.

(b) A licensed nursing home administrator.

(c) A substance abuse counselor as defined in s. SPS 160.02 (26).

(d) An employee with an associate degree or higher from an accredited college in social work, psychology, or a similar human services field.

(e) A student nurse who has successfully completed related courses.

(f) An employee who was responsible for conducting a resident assessment and developing individual service plans before the effective date of this paragraph …. [LRB inserts date].

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(11) EXEMPTIONS FROM DIETARY TRAINING. All of the following individuals are exempt from required training in determining dietary needs, menu planning, food preparation, and sanitation under s. DHS 88.21 (2):

(a) A certified dietitian under s. 448.78, Stats.

(b) An employee who has completed an associate degree or higher in food service management or culinary arts.

(c) A certified food manager who has successfully passed an exam from an accredited program or a department approved course as specified in the Wisconsin Food Code, ATCP 75 Appendix part 12−401.11.

(d) A certified direct care professional.

(12) EXEMPTIONS FROM CONTINUING EDUCATION.

(a) A licensee shall be exempt from continuing education requirements under s. DHS 88.24 for the calendar year during which the licensee first met testing standards to be placed on the certified direct care professional registry.

(b) A resident care staff shall be exempt from continuing education requirements under s. DHS 88.24 for the calendar year during which the resident care staff first met testing standards to be placed on the certified direct care professional registry.

DHS 88.24 Continuing education. An AFH shall provide, obtain, or otherwise ensure the licensee and resident care staff receive at least 8 hours per calendar year of continuing education beginning with the first full calendar year of employment. Continuing education shall be relevant to job responsibilities and shall include, at a minimum, all of the following:

(1) Infection prevention and control program procedures, including standard precautions.

(2) Client group training for each client group identified on the AFH license. The training for the dementia client group shall also meet the training requirements under s. DHS 88.36 (2) (e).

(3) Recognizing, preventing, managing, and responding to challenging behaviors as applicable to client groups served.

(4) Medication administration.

(5) Resident rights and the AFH's complaint and grievance procedures.

(6) Prevention and reporting of abuse, neglect, and misappropriation of resident property.

(7) Emergency procedures including fire safety, first aid, and delayed egress door lock systems, when applicable.

DHS 88.25 Documentation.

(1) An AFH shall maintain documentation of all orientation and training provided in compliance with this subchapter and s. DHS 88.36 (2) and (3), if applicable. Documentation shall include the name of the employee, the name of the instructor, the dates of training, a description of the course content, and the length of the training.

(2) An AFH shall document all required training completed by an employee in the employee's file.

Subchapter V — Admission, Retention and Discharge

DHS 88.26 Limitations on admissions and retentions.

(1) LICENSE CAPACITY. No AFH may have more residents, including individuals admitted for respite care, than the maximum bed capacity specified on its license.

(2) ADMISSION AND RETENTION LIMITATIONS. An AFH may not admit or retain any of the following individuals:

(a) An individual who has an ambulatory or cognitive status that is not compatible with the license classification under s. DHS 88.04.

(b) An individual who is destructive of property or self, or who is physically or mentally abusive to others, unless the AFH has sufficient resources to care for the individual and is able to protect the individual and others.

(c) An individual who has physical, mental, psychiatric, or social needs that are not compatible with the client group as described in the AFH's program statement.

(d) An individual who is incapacitated, unless the individual has a guardian appointed under ch. 54, Stats., or has an activated power of attorney for health care under ch. 155, Stats., a durable power of attorney under ch. 244, Stats., or both.

(e) An individual whose clinical condition is unstable and unpredictable, changes rapidly, and is likely to require frequent changes or complex modifications to medical orders, unless all of the following conditions are met:

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1. The individual's condition is treatable, improves, or is anticipated to resolve in no more than 30 days.

2. The individual is otherwise appropriate for the level of care provided under the AFH's license classification.

3. The services needed to treat the individual's condition are provided under the AFH's license classification.

(3) SERVICES FOR RESIDENTS WITH TERMINAL ILLNESS. An AFH may provide care to a resident who has a terminal illness only under the following conditions:

(a) The AFH develops a written, coordinated plan of care with a licensed hospice, a licensed home health agency, or other primary care provider before the initiation of palliative or supportive care. The coordinated plan of care shall include a description of services to be provided and who is responsible for performing the service to meet the resident's needs.

(b) The AFH provides limited health services in accordance with requirements under s. DHS 88.36 (3).

(c) The AFH assesses and develops a plan to meet the evacuation needs of the resident with terminal illness. The AFH shall obtain a waiver from the department under s. DHS 88.03 when the assessed evacuation needs of the resident are not compatible with the license classification under s. DHS 88.04.

(4) ADMISSION OF MINORS. An AFH may not admit an individual under 18 years of age unless the AFH obtains written approval from the department and one of the following apply:

(a) The AFH is also licensed under ch. DCF 56 as a children's foster home. The combined licensed bed capacity for a dually licensed AFH may not exceed 4 residents.

(b) The minor has been waived to an adult court under s. 938.18, Stats.

(c) The minor is the child of an adult resident. If the child of an adult resident resides in an AFH, all of the following apply:

1. The adult resident shall retain custody and control of the child.

2. If the minor is a nonclient resident, the nonclient resident is not included in the license capacity of the AFH.

3. The AFH shall have written policies related to the presence of a minor in the AFH, including policies on parental responsibility for supervision, school attendance, and any services provided to the minor by the AFH.

DHS 88.27 Admission procedures.

(1) RESIDENT HEALTH SCREENING.

(a) No sooner than 90 days before admission and no later than 7 days after admission, a physician, physician assistant, advance practice nurse, or registered nurse shall screen each individual admitted to an AFH for a clinically apparent communicable disease, including tuberculosis, and document the results of the screening.

(b) Screening for tuberculosis and all immunizations shall be conducted in accordance with standards established by the center for disease control and prevention.

(c) An AFH shall maintain documentation of each screening under par. (a) in the individual's record.

(2) RESIDENT RIGHTS, GRIEVANCE PROCEDURE AND HOUSE RULES. Before or at the time of admission, an AFH shall provide copies of all of the following materials and shall provide an explanation of any of the following materials upon request:

(a) Resident rights.

(b) The AFH's house rules, if any.

(c) The AFH's grievance procedures, including written information regarding the names, addresses and telephone numbers of all resident advocacy groups serving the client groups in the AFH, including the regional office of the board on aging and long-term care's ombudsman program and the protection and advocacy services of Disability Rights Wisconsin.

(3) RESIDENT PROTECTION. Before or at the time of admission, an AFH shall inform a resident or the resident's legal representative that, pursuant to s. DHS 13.05 (4) (a) and s. 146.40 (4r) (a), Stats., any individual may report to the department that he or she believes that any person employed by or under contract with the AFH has neglected or abused a resident or misappropriated a resident's property.

Note: To report a complaint, access https://www.dhs.wisconsin.gov/guide/complaints.htm or call and leave a message at 800-642-6552.

(4) ACKNOWLEDGEMENT OF RECEIPT. Before or at the time of admission, a resident or the resident's legal

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representative shall sign a statement to acknowledge the receipt of the information provided in accordance with subs. (2) and (3). The AFH shall document the date the information was provided.

(5) TEMPORARY SERVICE PLAN. At the time of admission, an AFH shall develop a temporary service plan as required under s. DHS 88.33 (3).

(6) ADVANCED DIRECTIVES.

(a) For purposes of this subsection, "advanced directive" means any of the following:

1. A declaration to a health care professional or a living will under s. 153.03, Stats.
2. A power of attorney for health care under ch. 155, Stats., or a durable power of attorney under ch. 244, Stats.
3. A do-not-resuscitate order under s. 154.19, Stats.
4. Any other legal instrument recognized by the courts of this state that describes the choices about treatment the resident may or may not want and about how health care decisions should be made for the resident if the resident becomes incapacitated and cannot express their wishes.

(b) At the time of admission, an AFH shall inquire if the admitted resident has executed an advanced directive. If the admitted resident has executed an advanced directive, a copy of the advanced directive shall be maintained in the resident's record as required under s. DHS 88.40. An AFH may not require an advanced directive as a condition of admission or as a condition of receiving any health care service.

DHS 88.28 Admission agreement.

(1) SERVICES AND CHARGES.

(a) Before or at the time of admission, an AFH shall provide written information regarding services available and the charges for those services to the admitted resident or the resident's legal representative. The provided information shall include any charges for services not covered by the daily or monthly rate, any assessment fees, and any security deposit.

(b) An AFH shall provide to each resident, or each resident's legal representative, a 30-day advanced written notice of any change in services available or any change in charges for services that will be in effect for more than 30 days.

(2) ADMISSION AGREEMENT REQUIREMENTS. No AFH may admit an individual as a resident unless the individual or the individual's legal representative executes an admission agreement. The admission agreement shall be given in writing and explained orally in the language of the individual or the individual's legal representative. The admission agreement shall include all of the following:

(a) An accurate description of the basic services provided, the rate charged for those services, and the methods of payment accepted.

(b) Information about all additional services offered but not included in the basic services. The AFH shall provide a written statement of the fees charged for each of these additional services.

(c) The method for notifying residents of a change in services or a change in charges for services.

(d) Terms for resident notification to the AFH of voluntary discharge. This paragraph does not apply to a resident in the custody of a government correctional agency.

(e) Terms for refunding charges for services paid in advance, or security deposits in the case of transfer, death, or voluntary or involuntary discharge.

(f) A statement that the amount of the security deposit may not exceed one month's fees for services if a security deposit is collected.

(g) Terms for holding and charging for a resident's room during a resident's temporary absence. This paragraph does not apply to a resident in the custody of a government correctional agency.

(h) Reasons and notice requirements for involuntary discharge or transfer, including transfers within the AFH. This paragraph does not apply to a resident in the custody of a government correctional agency.

(3) REFUNDS. An AFH shall return all refunds due a resident under the terms of the admission agreement within 30 days after the date of discharge.

(4) REVIEW AND UPDATE. An executed admission agreement shall be reviewed when a change in the assessed need of the resident requires a change in services provided. The admission agreement shall be updated as mutually agreed to by all parties to the agreement. Any charges for agreed upon services may be assessed upon initiation of new services provided to meet the resident's change in assessed needs. Upon request of the resident or resident's legal representative, an AFH shall conduct an assessment and shall review services and charges to determine continued appropriateness of the services provided.

(5) CONFLICT WITH THIS CHAPTER OR OTHER LAWS. No provision of the admission agreement may be in conflict

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with any part of this chapter unless the department has granted a waiver or variance of the conflicting part of this chapter in accordance with s. DHS 88.03. No provision of the admission agreement may waive any right afforded to residents by law.

DHS 88.29 Discharge or transfer.

(1) APPLICABILITY. This section applies to all resident discharges.

(2) EMERGENCY OR TEMPORARY TRANSFERS. If a condition or action of a resident requires the emergency transfer of the resident to a hospital, nursing home, or other facility for treatment not available from the AFH, the AFH may not involuntarily discharge the resident unless the requirements under sub. (4) are met.

(3) DISCHARGE OR TRANSFER INITIATED BY RESIDENT.

(a) Any competent resident may initiate transfer or discharge at any time in accordance with the terms of the admission agreement if the resident is not in the custody of a government correctional agency, committed under s. 51.20, Stats., or under a court-ordered protective placement under s. 55.12, Stats.

(b) If a resident who is adjudicated incompetent under ch. 54, Stats., protests their admission or continued stay, the licensee or the licensee's designee shall immediately notify the resident's legal representative and the county protective services agency to obtain a determination about whether to discharge the resident under s. 55.055 (3), Stats.

(4) DISCHARGE OR TRANSFER INITIATED BY AFH.

(a) *Notice and discharge requirements*.

1. Before an AFH involuntarily discharges a resident, the licensee shall give the resident or legal representative at least 30 days advance written notice that the AFH intends to involuntarily discharge the resident. The notice shall explain to the resident or the resident's legal representative the need for and possible alternatives to the discharge. Termination of placement initiated by a government correctional agency does not constitute a discharge under this section.
2. An AFH shall ensure a coordinated process to make certain that a living arrangement suitable to meet the needs of the resident is secured before discharging the resident. The AFH shall ensure a coordinated transfer of the resident and their belongings to the new placement.

(b) *Reasons for involuntary discharge*. An AFH may not involuntarily discharge a resident unless one or more of the following occurs:

1. The resident has past due charges after being given a reasonable opportunity to pay.
2. The resident requires care, treatment, or services that are beyond the AFH's license classification.
3. The resident requires care, treatment, or services that are inconsistent with the AFH's program statement and beyond that which the AFH is required to provide under the terms of the admission agreement and this chapter.
4. The resident requires professional medical care that the AFH cannot provide.
5. The presence of the resident creates an imminent risk of serious harm to the health or safety of the resident, other residents, or employees, as documented in the resident's record.
6. A reason as otherwise permitted by law.

(c) *Closure requirements.* No resident may be involuntarily discharged due to closure of the AFH pursuant to s. DHS 88.11.

(d) *Notice requirements*. Every notice of involuntary discharge under this subsection 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 for discharge under par. (b) and justification for discharge.
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 with an explanation why the discharge should not take place within 10 days of receipt of the discharge statement to the department's regional office and by sending a copy of the written request to the discharging AFH.
3. The name, address, and telephone number of the department's regional office director.
4. The name, address, and phone number of all resident advocacy organizations providing advocacy for the client groups served, including the regional office of the board on aging and long-term care's ombudsman program and the protection and advocacy services of Disability Rights Wisconsin.
5. A notice that the discharging AFH's grievance process may be utilized in response to the discharge.

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(e) *Department review of discharge*

1. A resident may request department review of an involuntary discharge within 10 days of receipt of a notice of involuntary discharge. If a timely request is sent to the department, the discharging AFH may not proceed with an involuntary discharge until the department has completed its review and notified the resident or the resident's legal representative and the AFH of the department's decision.

2. Within 7 days after receiving a copy of the letter requesting review under par. (d) 2., the AFH may provide to the department's regional office additional information justifying the discharge.

3. The department shall complete its review within 10 days after receiving the letter requesting review under par. (d) 2. or 10 days after the department receives additional information from the discharging AFH under subd. 2., whichever is later. The department shall notify in writing the resident or the resident's legal representative and the AFH of the department's decision.

(5) DISBURSEMENT OF FUNDS.

(a) An AFH shall return all refunds due to a resident in accordance with s. DHS 88.28 (3).

(b) An AFH shall return all resident personal funds held by the AFH to the resident or the resident's legal representative in accordance with s. DHS 88.32 (3).

(6) INFORMATION PROVIDED AT THE TIME OF TRANSFER OR DISCHARGE. At the time of a resident's transfer or discharge, an AFH shall provide the resident or the resident's legal representative all of the following:

(a) *Facility information*. The name and address of the AFH, the dates of admission, and the name and phone number of a person to contact for additional information.

(b) *Medical providers*. The names and addresses of the resident's physician, dentist, and other medical care providers.

(c) *Emergency contacts*. The names, addresses, and phone numbers of the resident's legal representative or any person who may be contacted in case of emergency.

(d) *Assessment and individual service plan*. The resident's assessment and individual service plan, or a summary of each.

(e) *Medications*. The current list of medication orders.

(f) *Basis for discharge or transfer*. The reason for the discharge, including the applicable grounds for discharge or transfer under sub. (2), (3), or (4).

Subchapter VI — Resident Rights and Protections

DHS 88.30 Rights of residents.

(1) LEGAL RIGHTS. A licensee shall comply with all applicable statutes and rules relating to resident rights.

Note: Other statutes, including s. 51.61, Stats., chs. 54, 55, 155, and 304, Stats., and chs. DHS 92 and 94 may further clarify or condition a particular resident's rights, depending on the legal status of the resident or a service received by the resident.

(2) EXERCISE THE RIGHTS OF RESIDENTS.

(a) No person may use any form of coercion to discourage or prevent a resident or the resident's legal representative from exercising any of the rights under this subchapter.

(b) No person may use any form of retaliation against a resident or a resident's legal representative for exercising any rights provided in this subchapter, or against an employee or any other person who assists a resident or a resident's legal representative in the exercise of any of the rights provided in this subchapter.

(c) The rights established under this subsection do not apply to a resident in the legal custody of a government correctional agency, except as determined by a government correctional agency.

(3) RESIDENT RIGHTS.

(a) *Fair treatment*. Each resident shall be treated with courtesy, respect, and full recognition of the resident's dignity and individuality.

(b) *Privacy*. Each resident shall have physical and emotional privacy in treatment, living arrangements, and in caring for personal needs, including toileting, bathing, and dressing. The resident, resident's room, any other area in which the resident has a reasonable expectation of privacy, and the personal belongings of a resident may not be searched without the resident's permission or the permission of the resident's legal representative except when there is a reasonable cause to believe that the resident possesses contraband. The resident shall be present for the search.

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(c) *Communications*. Each resident shall have private and unrestricted communications with the any person, unless medically contraindicated as documented by the resident's physician, physician assistant, or advanced practice registered nurse in the resident's medical record, except that communications with public officials or with the resident's attorney may not be restricted in any event. The right to private and unrestricted communications includes the right to make and receive telephone calls within reasonable limits and in privacy. An AFH shall provide a non-pay telephone for resident use. An AFH may require a resident who makes long distance calls to do so at the resident's own expense.
(d) *Confidentiality*. Each resident's health and personal information and records shall remain confidential. Each resident may approve or refuse the release of that information to any individual outside the AFH, except when the resident is transferred to another facility or as required by law or third-party payment contracts. An AFH shall make a resident's record available to the resident or the resident's legal representative for review within 7 days following request. An AFH shall make copies of a resident's record for a resident or a resident's legal representative within 30 days, if requested in writing, at a cost no greater than the cost of reproduction.
(e) *Freedom from labor*. No resident may be required to perform services for an AFH that are not included for therapeutic purposes in the resident's individual service plan.
(f) *Freedom from mistreatment*. Each resident shall be free from physical, sexual, and mental abuse and neglect, and from financial exploitation and misappropriation of property.
(g) *Freedom from seclusion*. Each resident shall be free from seclusion.
(h) *Freedom from chemical restraints*. Each resident shall be free from all chemical restraints.
(i) *Freedom from physical restraints*. Each resident shall be free from physical restraints except as authorized in writing by a physician, physician assistant, or advanced practice nurse prescriber for a specified and limited period of time and as approved by the department. The department may place conditions on the use of a restraint to protect the health, safety, welfare, and rights of the resident. Physical restraints may be used in an emergency when necessary to protect the resident from injury to himself or herself or others or to property. Authorization for continuing use of physical restraints following the use of physical restraints in an emergency shall be secured from a physician, physician assistant, or advanced practice registered nurse within 12 hours from the time that physical restraints were first applied. The use of an emergency restraint shall be reported to the department within 3 business days with documentation of the incident, the actions taken by the AFH, and the outcome. Use of a physical restraint shall be documented in the resident's medical record.
(j) *Receive medication and treatments.* Each resident shall receive all prescribed medications and treatments as prescribed by the resident's practitioner. The resident has the right to refuse medication and treatment unless the medication or treatment is court ordered.
(k) *Prompt and adequate treatment*. Each resident shall receive prompt and adequate treatment that meets the resident's needs.
(L) *Treatment options*. Each resident shall have the right to participate in the planning of care and treatment, shall be fully informed of care and treatment options, and have the right to refuse any form of care or treatment unless the care or treatment has been ordered by a court.
(m) *Self-determination*. Each resident shall have the right to make decisions relating to care, activities of social, religious and community group participation, daily routines, and other aspects of life which enhance the resident's self-reliance and support the resident's autonomy and decision making.
(n) *Least restrictive environment*. Each resident shall have the least restrictive conditions necessary to achieve the purposes of the resident's admission. An AFH may not impose a curfew, rule, or other restriction on a resident's freedom of choice.
(o) *Recording, filming, photographing*. Each resident shall have the right not to be recorded, filmed, or photographed without informed, written consent by the resident or resident's legal representative. An AFH may take a photograph of the resident for identification purposes. The department may photograph, record, or film a resident pursuant to an inspection or investigation under s. 50.03 (2), Stats., without his or her written informed consent. No AFH may require a resident or a resident's legal representative to consent to the use of electronic recording, video monitoring, or filming equipment as a condition of admission.
(p) *Safe physical environment*. Each resident shall have the right to live in a safe environment. An AFH shall safeguard a resident from environmental hazards to which it is likely the resident will be exposed, including conditions that are hazardous to the resident because of the resident's conditions or disabilities.
(q) *Autonomy in managing financial affairs*. Each resident shall have the right to manage their own

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financial affairs, including any personal allowances under federal or state programs, unless the resident delegates, in writing, responsibility for financial management to the licensee or someone else of the resident's choosing or the resident is adjudicated incompetent in which case the guardian or guardian's designee is responsible.

(r) *Clothing and possessions*. Each resident shall have the right to retain and use personal clothing and effects and to retain, as space permits, other personal possessions in a reasonably secure manner.

(s) *Mail*. Each resident shall have the right to receive and send sealed, unopened mail, including packages. The licensee shall give mail to the resident on the day it is received or as soon as possible thereafter, unless the licensee has reasonable cause to believe that the mail being sent or received contains contraband, in which case a resident's mail may be opened by the licensee but only in the presence of the resident.

(t) *Visits*. Each resident shall have the right to have private visitors and have adequate time and private space for visits.

(u) *Choice of providers*. Each resident shall have the right to exercise complete choice of providers of physical health, mental health care, and pharmaceutical services if the pharmaceutical services meet regulatory requirements for an AFH.

DHS 88.31 Grievances.

(1) An AFH shall have written grievance procedures and shall provide a copy of those procedures to each resident and the resident's legal representative before or at the time of admission. The written grievance procedure shall include all of the following:

(a) The name, address, and phone number of all resident advocacy organizations providing advocacy for the client groups served, including the long-term care's ombudsman program and the protection and advocacy services of Disability Rights Wisconsin.

(b) The name, address, and phone number of the department's regional office that licenses the AFH.

(c) The department's webpage and phone number to report a complaint.

(2) A resident or any individual on behalf of the resident may file a grievance with an AFH, the department, the resident's case manager, if any, the board on aging and long-term care, Disability Rights Wisconsin, or any other organization providing advocacy assistance. An AFH shall assist residents with grievance procedures and ensure the following:

(a) A resident and a resident's legal representative shall have the right to advocacy throughout the grievance procedure.

(b) The person investigating the facts associated with a grievance may not have had any direct involvement in the issue leading to the grievance.

(c) A resident or a resident's legal representative do not experience any form of coercion to discourage or prevent any individual from filing a grievance or any form of retaliation for having filed a grievance is prohibited.

(d) An AFH shall provide a written summary of the grievance, the findings, the conclusions, and any action taken to the resident or the resident's legal representative and the resident's case manager, if any. The AFH shall maintain a copy of the written summary.

(3) An AFH shall follow the grievance procedures under s. DHS 94.40 for any resident placed or funded by a county department of social services under s. 46.21 or 46.22, Stats., a county department of human services under s. 46.23, Stats., a county department of community programs under s. 51.42, Stats., a county department of developmental disabilities services under s. 51.437, Stats., or for any resident who is receiving protective services or protective placement under ch. 55, Stats.

DHS 88.32 Resident funds.

(1) AUTHORIZATION. Except for a resident in the custody of a government correctional agency, an AFH may not obtain, hold, or spend a resident's funds without written authorization from the resident or the resident's legal representative. A resident or a resident's legal representative may limit or revoke authorization under this subsection at any time by writing a statement that shall specify the effective date of the limitation or revocation.

(2) FUNDS UNDER $200.

(a) Upon written authorization from a resident or a resident's legal representative, an AFH may hold no more than $200 cash for use by the resident. The AFH may not commingle residents' funds with the funds or property of the AFH, the licensee, employees, or relatives of the licensee or employees.

(b) An AFH shall have a legible, accurate accounting method for tracking each resident's cash held under

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this subsection and shall include a record of any deposits, disbursements, and earnings made to or on behalf of each resident. The AFH shall provide a receipt to a resident or a resident's legal representative for all expenditures exceeding $20.

(c) An AFH shall provide a written report of a resident's account to the resident or the resident's legal representative upon written request from the resident or resident's legal representative within 3 business days of receipt of the written request.

(3) FINAL ACCOUNTING. Within 14 days after a resident is discharged, an AFH shall do all of the following:

(a) Provide the discharged resident or the discharged resident's legal representative with a written final accounting of all the resident's funds held by the AFH.

(b) Disburse any remaining money to the resident or the resident's legal representative.

(4) LIMITATIONS.

(a) No licensee or any individual employed by or under contract with the AFH may do any of the following:

1. Sell to or purchase real or personal property from a resident or prospective resident.
2. Accept or borrow money from a resident or prospective resident.
3. Be appointed as power of attorney for any resident unless married to the resident or related to the resident by blood or adoption.
4. Accept personal gifts, including monetary gifts, from a resident.

(b) No licensee or any individual employed by or under contract with an AFH may accept donations from any resident, except those made by a competent resident or made with the knowledge of the resident's legal representative acting within the scope of their authority and only for the benefit of the residents of the AFH.

(5) SECURITY DEPOSIT.

(a) If an AFH collects a security deposit, the funds shall be deposited in an interest-bearing account insured by an agency of, or a corporation chartered by, this state or the United States.

(b) The amount of the security deposit collected by an AFH may not exceed one month's fees for services.

(c) An AFH shall keep the security deposit account separate from other funds of the AFH.

(d) Within 30 days after a resident's discharge, the resident's security deposit and any interest earned on that deposit shall be paid to the person who made the security deposit in accordance with the admission agreement under s. DHS 88.28 (2). Interest paid under this paragraph shall be the actual interest earned.

(6) TRANSFER OF FINANCIAL RESPONSIBILITY. When a change of ownership of the AFH occurs, the transferor shall do all of the following:

(a) Notify the transferee in writing of any financial relationships between the transferor and residents.

(b) Notify each resident or legal representative in writing where any financial relationship exists between the transferor and residents of the pending transfer.

Subchapter VII — Resident Care and Services

DHS 88.33 Assessment, individual service plan and evaluations.

(1) DEFINITION. In this section, "emergency admission" means the admittance of a prospective resident to the AFH when the person's health and safety would be jeopardized by not permitting immediate admittance.

(2) ASSESSMENT.

(a) *Frequency*. An AFH shall assess an individual's needs, abilities, and physical and mental condition before admitting the individual as a resident to the AFH, whenever there is a change in the individual's needs, abilities, or condition, and at least annually. The assessment shall include all areas listed under par. (c). For emergency admissions, the AFH shall conduct an assessment under this paragraph within 5 days after admission.

(b) *Information gathering*. An AFH shall base the assessment under par. (a) on the current diagnostic, medical, and social history obtained from the individual's health care providers, case manager, and other service providers. A licensee or a licensee's designee shall conduct an interview with the individual and the individual's legal representative, if any, to determine what the individual views as their needs, abilities, interests, and expectations.

(c) *Areas of assessment*. At a minimum, an AFH shall assess all of the following areas when conducting an assessment under par. (a):

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1. The resident's physical health, including identification of chronic, short- term, and recurring illnesses, oral health, physical disabilities, mobility status, and any need for restorative or rehabilitative care.
2. The resident's nutritional needs, including the need for a therapeutic diet or dietary supplements.
3. Medications the resident takes and the resident's ability to control or self-administer medications.
4. Any pain felt by the resident, and the intensity of any pain felt.
5. Nursing procedures the resident needs and the number of hours per week of nursing care needed to meet the resident's needs.
6. The resident's mental and emotional health, including symptoms of mental illness and participation in treatment or programming.
7. Behavior patterns that are or may be harmful to the resident or other individuals, including destruction of property.
8. The resident's use of adaptive equipment, and any potential health or safety risks associated with its use.
9. The resident's health risks, including choking, falling, elopement, or suicide.
10. The resident's capacity for self-care, including the need for any personal care services, adaptive equipment, or training in the areas of instrumental activities of daily living such as cooking, cleaning, transportation, laundry, managing finances, and meal preparation.
11. The resident's capacity for self-direction, including the ability to make decisions, to act independently, to make wants or needs known, and to give consent to consensual sexual activity.
12. The resident's social participation, including interpersonal relationships, leisure time activities, family and community contacts, and vocational needs.
13. The resident's mental or physical capability to respond to a fire alarm and evacuate the AFH within the applicable period of time as required by the AFH's licensure class as specified under s. DHS 88.04 (2). The evacuation assessment shall be completed on a form provided by the department. The evacuation assessment shall be retained in the resident's record.

Note: The Resident Evacuation Assessment form can be found at https://www.dhs.wisconsin.gov/forms/index.htm.

(d) *Assessment documentation*. An AFH shall document the results of the assessment under par. (a) and shall retain the assessment in the resident's record.

(3) TEMPORARY SERVICE PLAN. Upon admission, an AFH shall prepare and implement a written temporary service plan to meet the immediate needs of the admitted resident until the individual service plan under sub. (4) is developed and implemented.

(4) COMPREHENSIVE INDIVIDUAL SERVICE PLAN.

(a) *Scope*. Within 30 days after admission and based on the assessment under sub. (2), an AFH shall develop a comprehensive individual service plan for each admitted resident. The individual service plan shall identify all of the following:

1. The resident's needs and desired outcomes.
2. The services, frequency, and approaches to be provided, including the use of adaptive equipment and the specific interventions or approaches needed to ensure a safe and timely evacuation in an emergency.
3. Measurable goals to achieve the resident's desired outcomes.
4. Who is responsible for delivering care to the resident.

(b) *Development*. An AFH shall involve a resident and a resident's legal representative, as appropriate, in developing the individual service plan under par. (a). An AFH representative and the resident, or the resident's legal representative, shall sign and date the plan acknowledging their involvement in, understanding of, and agreement with the plan. If a resident has a medical prognosis of terminal illness and elected to receive supporting services from a hospice program or home health care agency, the AFH shall coordinate the development of the individual service plan and its approval with the identified agency. The resident's case manager, if any, shall be invited to participate in the development of the service plan.

(c) *Implementation*. An AFH shall implement and follow an individual service plan developed under par. (a) as written.

(d) *Individual service plan review.* An individual service plan shall be reviewed at least annually or whenever there is a change in a resident's needs, abilities, or physical or mental condition. The individual

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service plan shall be reviewed and revised in accordance with assessment procedures under sub. (2). All reviews of the individual service plan shall include input from the resident or the resident's legal representative, resident care staff, and other service providers as appropriate. The resident's case manager, if any, shall be invited to participate in the review of the service plan. The licensee, or their designee, and the resident, or the resident's legal representative, shall sign and date the individual service plan, acknowledging their involvement in, understanding of, and agreement with the reviewed and revised individual service plan.

(e) *Documentation of review.* An AFH shall document and date any changes made as a result of an individual service plan review under par. (d).

(f) *Availability.* All employees who provide resident care and services to a resident shall have continual access to the resident's individual service plan.

DHS 88.34 Medications.

(1) DEFINITION. In this section, "schedule II drug" means a controlled substance listed in s. 961.16, Stats., or 21 USC 812 (c).

(2) GENERAL REQUIREMENTS.

(a) *Practitioner's order.* An AFH shall ensure there is a written practitioner's order in the resident's record for any prescription medication, over-the-counter medication, or dietary supplements administered to a resident within 2 business days of its use. An AFH may follow the instructions on a prescription label when a pharmacy or practitioner is unavailable to immediately provide a written order for the prescription medication.

(b) *Medications*. Prescription medications shall come from a licensed pharmacy or a physician and shall have a label permanently attached to the outside of the container. Over-the-counter medications maintained in the manufacturer's container shall be labeled with the name of the resident for whom the over-the-counter medication is maintained. Over-the-counter medications not maintained in the manufacturer's container shall be labeled by a pharmacist. An AFH may use medications a resident received prior to admission to the AFH. An AFH shall have a policy to ensure medications received prior to admission meet the current practitioner's orders and are of good quality.

(c) *Packaging*. An AFH shall develop and implement a policy that identifies a medication packaging system to be used by the AFH. A resident whose medications are administered by AFH employees shall select a pharmacy that can provide medications in the medication packaging system chosen by the AFH. This paragraph does not apply to medications for residents who self-administer medications.

(d) *Documentation.*

1. When a resident is taking prescription or over-the-counter medications or dietary supplements, the resident's record shall include a current list of the type and dosage of medications or supplements taken by the resident, directions for use, and any change in the resident's condition.

2. When an employee of an AFH administers a resident's medication, the AFH shall provide a list of the resident's current medications to the resident's primary practitioner.

3. When a resident self-administers medications, an AFH shall provide a list of the resident's current medications for the resident to provide to all of the resident's practitioners.

(e) *Medication Regimen Review.*

1. If a resident's medications are administered by an AFH employee, the AFH shall arrange for a pharmacist or a practitioner to review the resident's medication regimen. This review shall occur no sooner than 30 days before the resident's admission and no later than 30 days after the resident's admission, whenever there is a significant change in medication, and at least every 12 months.

2. An AFH shall obtain a written report when a medication review is completed under subd. 1., and any medication-related problems identified. When the medication review is done by someone other than the prescribing practitioner, the AFH shall send the prescribing practitioner a copy of the report when there are medication-related problems identified with the resident's medication regimen that may need practitioner involvement to address.

(f) *Disposition of medications*.

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1. At the time a resident is discharged, an AFH shall send the resident's medications with current orders with the resident.

2. If a resident's medication has been changed or discontinued by the resident's practitioner, an AFH may retain the resident's discontinued medication for no more than 90 days unless an order by a physician or a request by a pharmacist is written every 90 days to retain the discontinued medication. Medications that are retained under this subdivision shall be separated from medications in use and those awaiting destruction.

3. An AFH shall develop and implement a policy for disposing unused, discontinued, outdated, or recalled medications in compliance with federal, state, and local standards or laws. Medications for disposal shall be separated from other medication in current use in the AFH and stored in a locked area that may only be accessed by the licensee or the licensee's designee. The licensee or designee and one other employee shall witness, sign, and date the record of destruction. The record shall include the medication name, strength, and amount.

(g) *Psychotropic medications*. At the time that a psychotropic medication is prescribed for a resident, an AFH shall ensure that all resident care staff understand the potential benefits and side effects of the prescribed medication.

(h) *As needed psychotropic medications*.

1. In this paragraph, "pro re nata psychotropic medication" or "PRN psychotropic medication" means a psychotropic medication prescribed to treat or manage a psychiatric symptom or challenging behavior on an as-needed basis.

2. When a PRN psychotropic medication is prescribed for a resident, an AFH shall do all of the following:

a. Include the rationale for use and a detailed description of the behaviors that indicate the need for a PRN psychotropic medication in the resident's individual service plan.

b. Review resident record documentation at least monthly for any inappropriate use of PRN psychotropic medication, including any use that is contrary to the individual service plan, and take action to correct any use contrary to the prescribed use. The review shall be conducted by the licensee or a qualified designee.

(i) *Proof-of-use record*. An AFH shall maintain a proof-of-use record for schedule II drugs that contains the date, time, and dose administered, the resident's name, the prescribing practitioner's name, the signature of the individual administering the dose, and the remaining balance of the drug. A licensee or a designee of the licensee shall audit, sign, and date all proof-of-use records on a daily basis. An AFH shall have a system to account for other medications of abuse to prevent and detect diversion of controlled substances.

(j) *Medication error, resident refusal, or adverse reaction*.

1. An AFH shall document in a resident's record any error in the administration of prescription or over-the-counter medication, known adverse drug reaction, or refusal of the resident to take medication.

2. An AFH shall report all errors in the administration of resident medication and any adverse drug reactions to a licensed practitioner, supervising nurse, or pharmacist immediately. If a medication error involves a medication that was missed, the AFH shall follow the printed medication instructions provided by the pharmacy and the AFH is not required to report the missed medication if the medication instructions do not require it.

3 . Unless otherwise directed by the prescribing practitioner, an AFH shall report to the prescribing practitioner, supervising nurse, or pharmacist as soon as possible after a resident refuses a prescribed medication for 2 consecutive days.

(k) *Medication information*. An AFH shall make written information on the purpose and side effects of medications taken by residents available to resident care staff.

(3) MEDICATION ADMINISTRATION.

(a) *Medication administration supervised by a registered nurse*. If medication administration is supervised by a registered nurse, an AFH shall ensure all of the following:

1. The registered nurse delegates and supervises the administration of medication and the medication administration system in accordance with s. N. 6.03 (3).

2. The registered nurse participates in the assessment, development, and review of the resident's individual service plan with respect to the resident's medical condition and the goals of the medication regimen.

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(b) *Medication administration not supervised by a registered nurse*.

1. In this paragraph, "unit dose" means medications packaged by a pharmacist in blister cards, punch cards, strip packaging, medication reminder boxes, or other similar packaging where the medication dose is packaged in a pre-selected dose.

2. If an AFH administers medication to a resident and the administration is not supervised by a registered nurse, the AFH shall arrange for a pharmacist to package and label the resident's prescription medications in unit doses. Over-the-counter medications may be excluded from unit dose packaging requirements under this paragraph unless the prescriber specifies that unit doses are required.

(c) *Documentation of medication administration*. At the time of medication administration, the person administering the medication or treatment to a resident shall document in the resident's record the name, dosage, date, and time of medication taken or treatments performed and shall initial the medication administration record. The person administering the medication or treatment shall document any side effects observed or symptoms reported by the resident. The person administering the medication or treatment shall document the rationale for use for any PRN medication and the resident's response to the medication. This paragraph does not apply to the self-administration of medications by residents.

(d) *Other administration*. Nebulizers, stomal and enteral medications, and medications, treatments, or preparations delivered vaginally or rectally, and injectables, except epinephrine auto injectors and naloxone, shall be administered by a licensed practitioner within the scope of their license. Medication administration described under sub. (2) (d) may be delegated to non-licensed employees pursuant to s. N 6.03 (3).

(e) *Emergency drugs*.

1. An AFH may store and administer epinephrine auto-injectors pursuant to s. 255.07, Stats.

2. An AFH may administer epinephrine auto-injectors for residents who have a prescription if the staff administering has completed training described under s. 255.07 (5), Stats.

3. An AFH may store, and resident care staff may administer, naloxone as an injection or nasal spray if the AFH has an opiate overdose response policy and procedure and any resident care staff who administer naloxone have received training in opiate overdose response and naloxone administration.

(f) *Point of care testing*. AFH resident care staff may administer testing such as blood glucose testing in order to administer medication. No AFH may administer testing unless the AFH obtains a clinical lab improvements amendments certificate of waiver.

Note: Contact the Division of Quality Assurance, Bureau of Health Services, for clinical lab improvements amendments certificate of waiver information.

(4) MEDICATION STORAGE.

(a) *Original containers*. All medications administered by an AFH shall be kept in the original containers and not transferred to another container unless the AFH complies with all of the following:

1. The medication is transferred from the original container to another container by a practitioner, registered nurse, or pharmacist. Transfer of medication to another container may be delegated to other personnel by a practitioner, registered nurse, or pharmacist. Employees who have completed medication administration training without delegation are permitted to transfer a single dose of medication into packages for the resident for use during unplanned or non-routine events or activities.

2. The medication transferred to a new container under this subdivision has a legible label on the new container that includes, at a minimum, the resident's name, medication name, dose, and instructions for use.

3. The original pharmacy container is maintained by the AFH until the transferred medication is completely used or is disposed.

(b) *Original container exemption*. If a resident self-administers medications, family members, or the legal representative for the resident may provide medications for the resident in alternate packaging.

(c) *Secure storage of medications*.

1 . All medications administered by an AFH shall be kept in locked medicine cabinets. Keys to the medicine cabinets shall only be available to personnel identified by the AFH.

2. If a resident self-administers their medication, an AFH shall provide a secure storage area for the

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resident's medication in the resident's room. The medications shall remain under control of the resident.

(d) *Refrigeration*. Medications stored in a common refrigerator shall be stored in a locked box. A refrigerator dedicated for medication storage shall be locked. Refrigerator temperatures shall be maintained at a level necessary to ensure medications in the refrigerator are stored at appropriate temperatures.

(e) *Proximity to chemicals*. An AFH may not store prescription or over-the-counter medications or dietary supplements within the same container or cabinet as chemicals or other contaminants that would make the medications or supplements dangerous to use.

(f) *Internal and external application*. An AFH shall physically separate medications for internal consumption from medications for external application. External medications include cream, eye drops, foam, gel, lotion, ointment, paste, powder, tincture, topical solution, and transdermal patch.

(g) *Controlled substances*. An AFH shall provide separately locked and securely fastened boxes or drawers within a locked medications area for storage of schedule II drugs. This paragraph does not apply to the storage of medications that are self-administered by residents.

DHS 88.35 Staffing requirements.

(1) ADEQUATE STAFFING.

(a) An AFH shall ensure that there are a sufficient number of employees available on a 24−hour basis to meet the needs of the residents.

(b) An AFH shall ensure all of the following:

1. At least one qualified resident care staff is present in the AFH when one or more residents are present in the AFH, unless the AFH ensures all of the following:

a. Any resident present in the AFH is assessed for their ability to self-supervise. A self-supervision assessment shall be completed on a from provided by the department and the assessment shall be retained in the resident's record.

b. Any resident present in the AFH, or the resident's legal representative, and the resident's case manager, if any, consent to the self-supervision.

c. A resident's individual service plan identifies the parameters for the self-supervision.

d. The self-supervision shall be in the best interest of the resident and not to accommodate staffing schedules.

2. At least one qualified resident care staff is awake, on duty, and available any time if at least one resident is in need of supervision, intervention, or services on a 24−hour basis to prevent or improve the resident's constant or intermittent mental or physical condition. This subdivision applies if at least one resident is at risk of elopement, has dementia, is self−abusive, becomes agitated or emotionally upset, or has a changing health condition that requires close monitoring.

(c) If all residents are away from an AFH, at least one qualified resident care staff shall be on call to provide coverage if a resident needs to return to the AFH before the regularly scheduled return time. The AFH shall provide each resident or an individual at the off-site location a means of contacting the on-call resident care staff.

(d) An AFH shall develop and implement procedures in the event of resident care staff absences or emergencies, including required duties and notifications.

(2) STAFFING SCHEDULE. An AFH shall maintain a current staffing schedule for all individuals employed by or under contract with the AFH. The staffing schedule shall include each employee's full name and time worked. Any changes to the staffing schedule shall be promptly documented on the staffing schedule. A copy of the staffing schedule shall be made available to the department upon request.

DHS 88.36 Program services.

(1) GENERAL SERVICES. An AFH shall help residents achieve or maintain the necessary skills to reach the resident's highest level of functioning. In addition to providing for the assessed needs determined under s. DHS 88.33 (2), an AFH shall provide or arrange for all of the program services described under this subsection.

(a) *Personal care*. The AFH shall ensure the provision of personal care services to meet the resident's assessed needs and to promote the resident's highest level of function.

(b) *Supervision*. The AFH shall ensure supervision is provided at a level appropriate to the needs of the resident.

(c) *Leisure time activities*. The AFH shall ensure an activity program is provided to meet the needs and

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interests of each resident.

(d) *Community activities*. The AFH shall ensure information and assistance is provided to facilitate resident participation in community activities.

(e) *Family and social contacts*. The AFH shall ensure the resident is encouraged and assisted in maintaining family and social contacts of their choice.

(f) *Communication skills*. The AFH shall ensure the provision of services to meet the communication needs of the resident.

(g) *Health monitoring*.

1. The AFH shall ensure the resident's health is monitored and ensure arrangements are made for physical health, oral health, or mental health services, as needed, unless otherwise arranged for by the resident. Each resident shall have an annual physical health examination completed by a physician, physician assistant, or an advanced practice nurse.

2. The AFH shall ensure the resident's food and fluid intake and acceptance of diet is observed and monitored appropriate to the needs of the resident. The AFH shall report significant changes in food and fluid intake to the resident's physician.

3. The AFH shall document communication with the resident's physician and other health care providers, and shall record any changes in the resident's health or mental health status in the resident's record.

(h) *Medication administration*. The AFH shall ensure the provision of medication administration services appropriate to the resident's needs.

(i) *Behavior management*. The AFH shall ensure services to manage resident's behaviors that may be harmful to themselves or others are provided to meet the needs of the resident.

(j) *Information and referral*. The AFH shall ensure the resident is provided information and assistance with referrals to appropriate community services.

(k) *Transportation*. The AFH shall provide or arrange for transportation when needed for medical appointments, work, educational or training programs, religious services and for a reasonable number of community activities of interest. AFHs that transport residents shall develop and implement written policies addressing the safe and secure transportation of residents.

(2) DEMENTIA SERVICES.

(a) If an AFH provides care, treatment, or services to residents with a diagnosis of dementia, then the AFH's license and program statement under s. DHS 88.06 (1) (e) shall identify individuals with dementia as a client group served and the AFH shall comply with the requirements under this subsection in addition to any other applicable requirements under this subchapter.

(b) An AFH to which par. (a) applies shall ensure that all resident care staff receive specialized dementia training within 90 days after starting employment, in addition to any other training required under subch. IV. The specialized dementia training shall include all of the following:

1. The nature of dementia, including the cause, development, and symptoms of dementia.

2. The effects that brain changes resulting from dementia have on the person's moods, abilities, and functioning.

3. The effects of dementia on verbal and nonverbal communication, ways to change these interactions, and approaches to assist effective interaction between residents with dementia and staff.

4. The challenges of food and fluid intake associated with dementia and techniques for addressing those challenges.

5. The effect of the environment and identifying ways to reduce stress and enhance normal functioning.

6. The use of activities to help the resident continue meaningful involvement in their day, and the importance of structure and routine and incorporation of the person's life story and past interests and routines.

7. The changes in behavior associated with dementia and how behavior attempts to communicate unmet needs.

8. The use of person-centered care approaches.

(c) The specialized dementia training under par. (b) shall be provided by an individual with professional training or professional experience in the subject area or an entity with a recognized expertise in the subject area.

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(d)

1. Resident care staff meeting the training requirements in par. (b) shall be exempt from dementia client group training under s. DHS 88.20 (1).

2. Resident care staff who are certified nursing assistants in good standing are exempt from the additional training under par. (b).

(e) The licensee for an AFH to which par. (a) applies and any resident care staff providing services for residents with dementia shall complete 2 hours of continuing education related to dementia-specific topics per calendar year beginning with the first full calendar year of employment.

(3) LIMITED HEALTH SERVICES.

(a) If an AFH offers limited health services, then the AFH shall comply with the requirements under this subsection. In this subsection, "limited health services" means any of the following services provided by an AFH:

1. Stage I or stage II pressure injury treatment and prevention, and stasis ulcer care; limited to applying and changing routine dressings that do not require packing.

2. Simple wound care including postoperative suture care or removal.

3. Ostomy care including appliance changes for residents with established stomas, such as: colostomy, ileostomy, urostomy for bowel or bladder excretion.

4. Urinary catheter care including urethral and suprapubic indwelling catheter cares to include routine changing bags, cleaning skin around tube and tube flushing.

5. Gastrostomy or other feeding tubes including care related to cleaning of skin around the tube and flushing of the tube. Tube placement and re-insertion may not be delegated to unlicensed caregivers.

(b) An AFH that offers limited health services shall inform a resident in need of one or more limited health services of the option to receive limited health services, including their right to receive care from a licensed home health agency or hospice provider, as appropriate. This notification shall be provided to the resident's legal representative, if appropriate.

(c) An AFH that offers limited health services shall:

1. Ensure limited health services are provided to a resident based on a written order from the resident's practitioner.

2. Ensure limited health services are performed, or delegated, to a qualified resident care staff by a registered nurse or other licensed practitioner within the scope of their license. The AFH shall maintain written evidence for each limited health service task delegated to a qualified resident care staff. The written evidence shall be maintained in the employee's file.

(d) An AFH shall develop written policies and procedures regarding the provision of limited health services. The policies and procedures shall be reviewed annually or when there is a change in the limited health services provided.

(e) An AFH shall employ or contract with a registered nurse, home health agency, or hospice, to do all of the following:

1. Provide or delegate limited health services as needed by a resident.

2. Participate in the development of service plans.

3. Perform nursing assessments of residents receiving limited health services every 90 days.

(f) An AFH shall ensure there are an adequate number of resident care staff on duty who are qualified to provide limited health services and to meet the needs of the residents.

(4) RESPITE CARE SERVICES. An AFH shall meet all requirements of this chapter in the provision of care and services to an adult admitted for respite care, except as otherwise specified in this subsection.

(a) *Closure and relocation planning*. Section DHS 88.11 does not apply to persons in respite care.

(b) *Health screening*. Section DHS 88.27 (1) does not apply to a person admitted for respite services. An AFH at which an individual is admitted for respite care services shall ensure that the individual in respite care is provided a health screen.

1. No sooner than 90 days before and no later than 7 days after admission of an individual for respite care services who will reside in the AFH for more than 7 days, a physician, physician assistant, advance practice nurse, or a licensed registered nurse shall screen the admitted individual for clinically apparent communicable disease, including tuberculosis, and document the results of the screening.

2. If an individual is admitted for respite care services for a second or subsequent admission in a

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calendar year and does not provide evidence that the individual underwent a health screening required under subd. 1. prior to the individual's admission, a physician, physician assistant, advance practice nurse, or a licensed registered nurse shall screen the admitted individual for clinically apparent communicable disease, including tuberculosis, and document the results of the screening.

3. Screening for tuberculosis and clinically apparent communicable disease shall be conducted in accordance with current standards of practice.

4. An AFH shall maintain documentation of the screening for each respite care person as specified in s. DHS 88.13 (2).

(c) *Discharge or transfer*. Section DHS 88.29 does not apply to individuals in respite care.

(d) *Individual service plan*. Sections DHS 88.27 (5) and 88.33 (3) and (4) do not apply to an individual admitted for respite care. An AFH to which an individual is admitted for respite care services shall do all of the following to develop an individual service plan for the admitted individual:

1. Upon admission, prepare and implement a written service plan to meet the needs of the person based on the assessment under s. DHS 88.33 (2).

2. Identify the services, frequency, and approaches to be provided, the use of adaptive equipment, and who is responsible for delivering care.

3. Involve the admitted individual or the admitted individual's legal representative, as appropriate, in developing the individual service plan. An AFH representative and the admitted individual, or the admitted individual's legal representative, shall sign and date the plan acknowledging their involvement in, understanding of, and agreement with the plan.

4. All employees who provide care and services to the individual admitted for respite shall have continual access to the admitted individual's individual service plan.

(e) *Medications*. Section DHS 88.34 (2) (d) 2. and 3., (e), and (h) 2. b. do not apply to the provision of medication to individuals admitted for respite care.

(f) *Immunization*. Section DHS 88.37 (3) does not apply to individuals admitted for respite care.

(g) *Records*. Section DHS 88.40 (1) (f) and (o) do not apply to the retention of records for an individual admitted for respite care.

(5) ANNUAL PROGRAM REVIEW.

(a) An AFH shall develop and implement an annual plan to evaluate and improve the program's operation and services. The evaluation process shall include all of the following:

1. A review of the existing program to identify quality of care issues.

2. The opportunity for each resident or their legal representative to complete a satisfaction survey regarding the services provided at the AFH.

3. The development and implementation of a plan of action to address issues identified in the provider's internal review and the satisfaction survey.

4. A process for monitoring the effectiveness of the plan of action taken by the AFH.

(b) The department may not require disclosure of any annual program review records except to determine compliance with this subsection.

DHS 88.37 Infection prevention and control.

(1) GENERAL REQUIREMENT. In addition to employee and resident communicable disease control measures established under ss. DHS 88.16 (2), 88.27 (1), and 88.36 (4) (b), an AFH shall establish and maintain an infection prevention and control program based on current centers for disease control and prevention standards of practice to prevent the development and transmission of communicable diseases and infection.

(2) MINIMUM PLAN AND IMPLEMENTATION REQUIREMENTS.

(a) An infection prevention and control program under sub. (1) shall include written procedures to prevent, identify, report, investigate, and control infections and communicable diseases for all residents, other occupants, employees, volunteers, and visitors.

(b) An AFH must prohibit employees with a communicable disease or infected skin lesions from direct contact with residents or their food if direct contact will transmit the disease.

(c) AFH employees shall follow hand washing procedures according to current standards of practice.

(d) An AFH shall establish testing requirements for residents and employees based on public health guidance. If necessary, an AFH shall obtain a Clinical Lab Improvements Amendments certificate of waiver.

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(3) IMMUNIZATIONS.

(a) An AFH shall ensure each resident or each resident's legal representative receives information regarding the benefits and potential side effects of the influenza immunization and any other immunizations recommended by the resident's practitioner.

(b). An AFH shall ensure each resident is offered an influenza immunization annually, and any other immunizations recommended by the resident's practitioner, unless any of the following apply:

1. The immunization is medically contraindicated.
2. The resident has already been immunized.
3. The resident or the resident's legal representative has refused immunization.

(c) A resident's medical record shall include documentation of any immunization that the resident received or did not receive due to medical contraindications or refusal.

(d) An AFH shall ensure pets are vaccinated against diseases, including rabies, if appropriate.

(4) LINENS. An AFH shall ensure that linens are handled, stored, and processed so as to prevent the spread of infection. An AFH shall ensure the following:

(a) Employees wear appropriate personal protective equipment when handling soiled linens.

(b) Soiled linens are placed in a container for transport and not carried against the body.

(c) Areas used for food preparation, serving, or storage, may not be used to collect, sort, wash, or rinse soiled laundry.

(5) OTHER OCCUPANTS. An AFH shall ensure that any occupants who are not residents shall comply with infection control requirements as stated in s. DHS 88.16 (2).

(6) ANNUAL REVIEW. An AFH shall conduct and document an annual review of the infection prevention and control program and revise the program as necessary.

DHS 88.38 Oxygen storage. Oxygen storage shall be in an area that is well ventilated and safe from environmental hazards, tampering, or the chance of accidental damage to the valve stem. Stored and in-use oxygen cylinders shall be secured in an upright position.

DHS 88.39 Food service.

(1) DEFINITION. In this section, "utensils" means dishes, silverware, and pots and pans used for storing, preparing, serving, or consuming food.

(2) FOOD SUPPLY REQUIREMENTS. An AFH shall obtain food from approved food sources that meet the dietary needs of each resident. Farmer's markets and personal gardens may be considered an approved food source when safe and sanitary methods of processing and handling are followed by the AFH.

(3) NUTRITION.

(a) *Diets*.

1. An AFH shall provide each resident with palatable food that meets current dietary guidelines for Americans and any special dietary needs of each resident.
2. An AFH shall provide a therapeutic diet as ordered by a resident's physician.

(b) *Meals*.

1. An AFH shall provide meals that are routinely served family or restaurant style, unless contraindicated in a resident's individual service plan or for short-term medical needs.
2. An AFH shall provide at least 3 meals a day. An AFH shall offer a nutritious snack in the evening or more often as consistent with a resident's dietary needs.
3. If a resident is away from an AFH during the time a meal is served, the AFH shall offer food to the resident on the resident's return.
4. An AFH shall make reasonable adjustments to the meals served for an individual resident to accommodate the individual resident's food likes, habits, and customs.

(4) SANITATION AND SAFETY.

(a) *Infection control*.

1. Any employee who prepares or serves food shall be free from open, infected wounds and from communicable disease and shall maintain clean and safe work habits.
2. No employee may use a common towel for hand drying.

(b) *Food safety.* An AFH shall store, prepare, distribute, and serve food under sanitary conditions for the prevention of food borne illnesses. An AFH shall do all of the following to prevent food borne illness:

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1. Cook food to an internal temperature sufficient to ensure the food is safe to consume.
2. Thaw frozen food according to current professional standards.
3. Refrigerate all foods requiring refrigeration at or below 41 degrees Fahrenheit.
4. Cover and store food in a sanitary manner.
5. Maintain freezing units at a temperature in which food remains frozen.
6. Hold hot foods at 135 degrees Fahrenheit or above, and cold foods at 41 degrees Fahrenheit or below until served.
7. Keep food storage areas clean and dry and store food at least 6 inches off the floor. All stored food shall be packaged, labeled, and dated. Food shall be disposed in accordance with marked expiration dates.
8. Monitor refrigerator and freezer temperatures at frequencies necessary to ensure food is stored at the required temperatures.

(c) *Equipment and utensils*. An AFH shall store equipment and utensils in a sanitary manner and shall maintain all utensils and equipment in good repair. Single-use utensils may not be reused.

(d) *Dishwashing*.

1. Whether washed by hand or mechanical means, all equipment and utensils shall be cleaned using separate steps for washing, rinsing, and sanitizing.
2. Mechanical washing of dishes and utensils in a residential dishwasher shall be operated according to manufacturer's directions. Upon removal of dishes or utensils from a residential dishwasher, a separate process shall be completed for sanitization of all items that is in accordance with current standards of practice, unless the dishwasher performs a separate sanitization process.
3. Dishes and utensils shall be air-dried, unless a dishwasher, which performs this function, is used.

Note: The Wisconsin Food Code is promulgated by the Wisconsin Department of Agriculture, Trade and Consumer Protection pursuant to ch. 97, Stats. Pursuant to s. ATCP 75.02, the Wisconsin Food Code applies to all retail food establishments, regardless of whether the retail food establishment is subject to licensing. More information on the Wisconsin Food Code and Food Code Fact Sheets can be found at https://datcp.wi.gov/Pages/Programs_Services/FoodCode.aspx

DHS 88.40 Resident records.

(1) An AFH shall maintain a record for each resident at the AFH. Each record shall include all of the following:

(a) The resident's full name, gender, date of birth, and admission date.

(b) The name, address, and telephone number of a designated contact person and a legal representative, if any.

(c) The resident's medical, social, and psychiatric history, if any.

(d) The resident's current primary physician.

(e) The results of the initial health screening under ss. DHS 88.27, 88.36 (4), and any subsequent health examinations under s. DHS 88.36 (1) (g).

(f) Documentation of annual influenza immunization or evidence of medical contraindications or refusal.

(g) A signed admission agreement.

(h) Documentation of significant accidents, incidents, and illnesses, including the applicable dates, times, and circumstances.

(i) Assessments completed as required under s. DHS 88.33 (2).

(j) The resident's individual service plan.

(k) Documentation to accurately describe the resident's condition, significant changes in condition, changes in treatment, and the resident's response to treatment.

(L) Results of all resident evacuation evaluations as required under s. DHS 88.33 (2).

(m) Any department approved resident-specific waiver, variance, or approval.

(n) Written practitioner's orders for any of the following:

1. Nursing care.
2. Any prescription medication, over-the-counter medication, or dietary supplements administered to a resident.
3. Any rehabilitation services or restrictive measures needed.
4. Any therapeutic diets.

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(o) Results of the monthly as-needed psychotropic medication monitoring as required under s. DHS 88.34 (2) (h).

(p) Documentation of administration of any prescription medication, over-the-counter medication, dietary supplement, and treatment, the person administering the medications, supplements, or treatments, any side effects observed by the person administering the medication or symptoms reported by the resident, the need for PRN medications, and the resident's response, refusal to take medication, omissions of medications, errors in the administration of medications, and drug reactions.

(q) Photocopies of any court order, advance directive, any other document authorizing another person to speak or act on behalf of the resident, or any other legal document that affects the care and treatment of a resident.

(r) Documentation of all other services needed.

(s) Nursing care procedures and the amount of time spent each week by a nurse in performing the nursing care procedures. Only time actually spent by a nurse with the resident may be included in the calculation of nursing care time.

(t) If the resident is deceased, the date, time, and circumstances of the resident's death, including the name of the person to whom the body was released.

(2) A licensee shall ensure all resident records are safeguarded against destruction, loss, or unauthorized access or use.

(3) An employee in charge on each work shift shall have a means to access resident records, as needed.

Subchapter VIII — Physical Environment

DHS 88.41 Common areas.

(1) LIVING AND DINING.

(a) Common areas shall be adequate in size and with sufficient furnishings so all occupants of the AFH can comfortably share the space at the same time.

(b) The dining area shall be large enough so that all household members may dine together.

(2) ACCESS. All common dining and living space shall be physically accessible and internally accessible to all residents.

(3) FURNISHINGS. All common-use rooms shall contain furnishings that are appropriate for the intended use of the room, are clean, and are maintained in good repair.

DHS 88.42 Resident bedrooms.

(1) DESIGN.

(a) Bedrooms shall be enclosed by floor to ceiling walls and shall have a rigid door that the resident can open and close.

(b) Bedroom doors shall open directly into a hallway, the resident's private living area, or a common living space.

(c) Each resident shall have or be provided, within the bedroom, a closet or wardrobe with clothes hanging rods and shelves and drawer space adequate to reasonably meet the needs of the resident. The bedroom shall have adequate and accessible space for a resident's wheelchair or other adaptive or prosthetic equipment.

(d) A resident's bedroom may not be used by anyone else to get to any other part of the home.

(2) LOCATION. Resident bedrooms shall be located near toilet and bathing facilities. The bedroom for any resident who is blind, semi-ambulatory, or non-ambulatory shall be on the first floor.

(3) CAPACITY. Resident bedrooms shall accommodate no more than 2 residents per room or no more than 1 resident and the resident's minor child per room.

(4) SIZE. A resident bedroom shall have a floor area of at least 60 square feet per resident in shared bedrooms or 80 square feet in single occupancy rooms. For a resident requiring a wheelchair, the bedroom space shall have a floor area of at least 100 square feet for that resident.

(5) BASEMENT BEDROOMS. A resident bedroom may not be located in the basement unless there are at least 2 unobstructed exits to the outside or grade from that floor level. A window in the basement shall not be considered an exit under this subsection. An egress window meeting the requirements under ch. SPS 321.03 (6) and installed prior to the effective date of this subsection …. [LRB inserts date] shall be exempt from this requirement.

(6) BED ARRANGEMENTS. An AFH shall locate beds at least the minimum distance from heat producing sources

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recommended by the bed manufacturer. An AFH shall have a deflector on the register when the bed is located less than 18 inches from a forced air register. No bed may block a forced air register.

(7) FURNISHINGS. If a resident does not provide their own bed or linens, an AFH shall provide all of the following:

(a) A bed of proper size and height to meet the resident's physical needs.

(b) A clean, comfortable mattress provided with a waterproof covering, when necessary.

(c) A clean, comfortable pillow, bedspread, and blankets adequate for the season.

(d) Clean sheets, pillowcases, towels, and washcloths adequate to meet the needs of the resident.

DHS 88.43 Bath and toilet areas.

(1) NUMBER.

(a) An AFH shall provide at least one toilet, one sink and one bath or shower for every 8 individuals including residents and other occupants.

(b) An AFH shall ensure that bath and toilet areas have sufficient space to provide a turning radius for a resident who uses a wheelchair, walker, or other mobility device.

(c) An AFH shall ensure that grab bars are provided at toilet and bath fixtures as necessary to meet the needs of the residents. Grab bars shall meet requirements as specified in ch. SPS 361.

(d) When fixtures are accessed only through a bedroom, the fixtures may only be counted as meeting the requirement for the occupants of that bedroom.

(2) HAND DRYING. An AFH shall ensure that all sink areas have dispensers for single use paper towels, cloth towel dispensing units that are enclosed for protection against being soiled, or electric hand dryers. This subsection does not apply to sink areas located in toilet rooms accessed directly and exclusively from a resident room that is occupied by one person.

(3) PRIVACY.

(a) An AFH shall ensure that bath and toilet rooms have door locks to ensure privacy, except where the toilet, bath or shower room is accessed only from a resident room that is occupied by one person. All door locks shall be operable from both sides.

(b) An AFH shall ensure that all toilet and bathing areas have floor to ceiling walls and a door assembly.

(4) WATER SUPPLY.

(a) An AFH shall connect each sink, bathtub, and shower to hot and cold water, and supply adequate hot water to meet the needs of the residents.

(b) An AFH shall set the temperature of all water heaters connected to sinks, showers and tubs used by residents at a temperature of at least 140 degrees Fahrenheit. The temperature of water at fixtures used by residents shall be automatically regulated by valves and may not exceed 115 degrees Fahrenheit.

(c) An AFH shall ensure that fixtures at sinks used by residents are easy for all residents to control.

DHS 88.44 Housekeeping services.

(1) CLEANLINESS.

(a) An AFH shall provide a living environment that is clean, comfortable, and homelike, allowing a resident to use personal belongings to the extent possible in the space provided.

(b) An AFH shall keep all rooms clean and free from odors.

(2) LAUNDRY.

(a) An AFH shall have laundry appliances available to residents, at no charge, who choose to do their own laundry.

(b) An AFH's clothes dryers shall use dryer vent tubing that is of rigid material with a fire rating that exceeds the temperature rating of the dryer. The dryer vent tubing shall be maintained in a safe and functioning condition.

(3) BATH AND TOILET AREAS. An AFH shall ensure that all bath and toilet areas, including fixtures, are clean and in good working order.

DHS 88.45 Storage areas. An AFH shall have adequate storage space for resident care supplies and equipment. An AFH shall maintain storage areas in a safe, dry, and orderly condition.

DHS 88.46 Building maintenance and site.

(1) MAINTENANCE.

(a) *Exterior areas*. The AFH shall maintain the yard, any fences, sidewalks, driveways, and parking areas of

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the AFH in good repair and free of hazards.

(b) *Interior areas*. Every interior floor, wall and ceiling shall be clean and in good repair.

(c) *Building integrity*. The AFH shall be structurally sound without visible evidence of structural failure or deterioration.

(d) *Surface drainage*. The AFH shall ensure the yard or other area on the premises of the AFH is drained or graded to divert water away from the building.

(e) *Systems*. The AFH shall maintain all electrical, mechanical, water supply, plumbing, fire protection and sewage disposal systems in a safe and functioning condition.

(2) TOXIC SUBSTANCES. The AFH shall ensure that cleaning compounds, polishes, insecticides, and toxic substances are labeled and stored in a secured area.

(3) PEST CONTROL. The AFH shall implement safe, effective procedures for control and extermination of insects, rodents, and vermin.

(4) GARBAGE AND REFUSE. The AFH shall properly dispose of garbage and refuse. Garbage and refuse in inside areas shall be kept in leak-proof, non-absorbent closed containers. Garbage and refuse in outside areas shall be in closed containers. Interior and exterior containers shall be emptied on a routine, scheduled basis and not be allowed to overflow or present an unsanitary situation.

DHS 88.47 Building support systems.

(1) HEATING.

(a) An AFH shall maintain comfortable and safe temperatures. The heating system shall be capable of maintaining temperatures of 74 degrees Fahrenheit in areas occupied by residents. The temperature in habitable rooms may not be permitted to fall below 70 degrees during periods of occupancy, except that the home may reduce temperatures during sleep hours to 67 degrees Fahrenheit. Higher or lower temperatures shall be provided to the extent possible when requested by a resident.

(b) No person may use a portable space heater on the premises of an AFH.

(c) An AFH shall maintain the heating system in a safe manner and in accordance with the manufacturer's recommendations. An AFH shall ensure that routine maintenance on the heating system is performed by a heating contractor or local utility company, and documentation of the maintenance performed is provided to the AFH. "Routine maintenance" means any of the following, as applicable to the AFH:

1. For an oil furnace, service performed at least once each year.

2. For a gas furnace, service performed at least once every 3 years.

3. For a boiler system, inspection and maintenance performed in accordance with manufacturer's recommendations.

(d) An AFH shall have a chimney inspected at intervals corresponding with the heating system service under par. (c) 1., 2. or 3.

(e) An AFH may not use a fuel−fired heater on the premises of the AFH unless the heater is properly vented to the outside.

(f) Any wood burning stove or fireplace shall have a flue separate from the flue used by a gas or oil-fired furnace or boiler. An AFH that uses a wood burning stove or fireplace flue shall have the wood burning stove or fireplace flue cleaned as often as necessary, but at least 1 time during each heating season. An AFH to which this paragraph applies shall make available documentation of the maintenance performed.

(g) Combustible materials may not be placed within 3 feet of any furnace, boiler, water heater, fireplace, or other similar equipment.

(2) VENTILATION.

(a) An AFH shall ensure that all habitable rooms and toilet rooms are well ventilated.

(b) An AFH may not have transoms, transfer grills, or louvers in bedroom walls or doors opening directly to a hallway.

(3) PUBLIC WATER SUPPLY. An AFH shall use a public water supply when available. If a public water supply is not available, an AFH shall have a well that is approved by the state department of natural resources. An AFH that has a well shall have the well water tested at least annually by the state laboratory of hygiene or other laboratory approved under ch. NR 149. The AFH shall maintain documentation of annual testing results.

(4) ELECTRICAL. An AFH shall ensure all of the following:

(a) *Protection*. Ground fault interrupter protection are installed for all outlets within 6 feet of a plumbing fixture, all outlets on the exterior of the AFH, and in the garage.

(b) *Outlets*. Living rooms, dining rooms, and each bedroom have one outlet per 75 square feet of floor

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area with a minimum of 2 outlets per room.

(c) *Extension cords*. Extension cords are not used in lieu of permanent wiring.

(d) *Switches*. Switches or equivalent devices for turning on at least one light in each room or hallway are located to conveniently control the lighting in the area.

(5) WINDOWS.

(a) *Location*. An AFH shall ensure that every habitable room has at least one window that is openable from the inside without the use of tools or keys and operates as intended by the manufacturer.

(b) *Screens*. An AFH shall ensure that all required openable windows have insect-proof screens.

(c) *Window coverings*. An AFH shall ensure that every habitable room has shades, drapes, or other covering material or device that affords privacy and light control.

(6) CEILING HEIGHT. All rooms used by residents shall have a ceiling height of at least 7 feet.

(7) CARBON MONOXIDE DETECTION.

(a) *Requirement.* An AFH with an attached garage, a wood or fuel-burning fireplace, or a fuel-burning appliance shall install and maintain carbon monoxide detectors. A carbon monoxide detector required under this subsection shall bear an Underwriters Laboratories, Inc., listing mark and may be a device that is combined with a smoke detector. A carbon monoxide detector wired to the AFH's electrical system shall have a backup battery power supply.

(b) *Location.* An AFH shall install a carbon monoxide detector in the basement of the dwelling and on each floor level except the attic or garage. An AFH shall install any carbon monoxide detector required under this section according to the directions and specifications of the manufacturer of the carbon monoxide detector.

DHS 88.48 Attached garages. An AFH shall have a 1¾–inch solid core wood door or an equivalent fire-resistive rated door to protect openings between an attached garage and the AFH.

DHS 88.49 Exits and doors.

(1) EXITS.

(a) All habitable floors of an AFH shall have at least 2 exits providing unobstructed travel to the outside. An AFH with no more than 2 habitable floors above grade level may have one exit from the second floor.

(b) Class B and class C AFHs shall have at least 2 grade level or ramped exits to grade. Class B and class C AFHs in a multi-level building initially licensed beginning on or after the effective date of this paragraph …. [LRB inserts date] shall be located on the first floor. Elevators may not be considered exits for purposes of this paragraph.

(c) Class B and class C AFHs shall have exit doors with a clear opening of at least 32 inches in width and 76 inches in height.

(d) Interior doors serving all common living areas and all resident bathrooms and bedrooms in a class B and class C AFH shall have a clear-width opening of at least 32 inches. This paragraph does not apply to an AFH licensed to provide care for ambulatory and semi-ambulatory residents before the effective date of this paragraph …. [LRB inserts date].

(e) No exit pathway may be through areas such as a resident room, bath or toilet room, closet, or furnace room.

(f) An AFH shall keep exits, sidewalks, and driveways used for exiting free of ice, snow, and obstructions.

1. AFHs serving only ambulatory residents shall maintain a cleared pathway from all exterior doors to be used in an emergency to a public way or location that is a safe distance away from the building.

2. AFHs serving semi-ambulatory or non-ambulatory residents shall maintain a cleared, hard surface, barrier–free walkway to a public way or location that is a safe distance away from the building for at least 2 primary exits from the building.

3. An exit door or walkway to a cleared driveway leading away from the AFH satisfies the requirement under subd. 2.

(g) Each exit required under this subsection shall have a unique pathway to a public way or location that is a safe distance away from the building.

(h) An exit pathway from an AFH through the garage to the outside shall be clear, safe, and unobstructed.

(i) When an exit required under this subsection leads into a garage, the garage shall have a service door to the outside. Class B and class C AFHs to which this paragraph applies shall have a service door with a

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clear-width opening of at least 32 inches. Overhead garage doors may not be used as an exit door for the purposes of this subsection.

(2) DOORS.

(a) All doors of an AFH shall have latching hardware to permit opening from the inside with a one-hand, one-motion operation without the use of a key or special tool.

(b) All interior doors of an AFH equipped with locks shall be designed to unlock from either side in case of emergency.

(c) An AFH shall install levered handles on all doors used by residents with manual strength or dexterity limitations.

(d) The staff member of an AFH in charge on each work shift shall have a means of opening all locks or security devices on all doors in the AFH.

(3) PATIO DOORS.

(a) A sliding glass patio door used as an emergency exit under sub. (1) shall be equipped with the factory installed door fastenings or hardware. No AFH may use bolt locks on sliding glass patio doors.

(b) A hinged, swing-type patio door used as an emergency exit under sub. (1) shall have latching hardware to permit opening from the inside with one-hand and one-motion without the use of a key or special tool.

(4) DELAYED EGRESS. Delayed egress door locks are permitted only with department approval and only in an AFH with an automatic fire sprinkler system and an externally monitored interconnected automatic smoke detection system. An AFH to which this subsection applies shall ensure all of the following:

(a) No more than one locking device is present in a means of egress.

(b) A sign is posted on the door adjacent to the locking device indicating how the door may be opened.

(c) The delayed egress doors unlock upon activation of the sprinkler system or the smoke detection system and the doors unlock upon loss of power controlling the lock or locking mechanism.

(d) The delayed egress door locks have the capability of being unlocked manually by a signal from a designated location in the AFH by an employee of the AFH.

(e) An irreversible process occurs which will release the latch in not more than 15 seconds when a force of not more than 15 pounds is applied for 3 seconds to the release device. Initiation of the irreversible process shall activate an audible signal in the vicinity of the door. Once the door lock has been released by the application of force to the releasing device, re-locking is by manual means only.

(f) The AFH obtains department approval prior to installation by submitting all of the following information to the department:

1. Evidence the delayed egress lock is necessary to ensure the safety of residents served by the AFH, specifically persons at risk of elopement due to behavioral concerns, cognitive impairments, or dementia, including Alzheimer's disease.

2. Documentation from a licensed contractor or the local municipality that the proposed delayed egress door lock system complies with the requirements under sub. (4) of this section and applicable building codes.

(g) After department approval and upon installation of the approved delayed egress lock system, the licensee shall:

1. Obtain documentation from the installer that the system has been installed, tested, and is fully operational as designed and approved. The licensee shall submit the documentation to the department within 10 days of completion of the installation.

2. Train each employee in the use and operation of the delayed egress lock system prior to the employee working alone. Training will be documented in personnel records and will include the name of the employee, the name of the instructor, a description of the course content, and the date of training.

(h) The AFH, or a company under contract with the AFH, tests the delayed egress lock system at least annually to ensure the system is fully operational and functioning as intended. The test shall be documented and include the date, name of person conducting the test, system failures, if any, and the steps taken to resolve each failure.

(5) STAIRS AND SHAFTS.

(a) All required interior and exterior exit stairways as specified under s. DHS 88.49 (1) shall be equipped with a handrail.

(b) No AFH may use spiral stairs as required exit stairs.

(c) For any shaft such as a dumbwaiter or laundry chute leading to the basement, an AFH shall provide a

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door on each level above the lowest floor. Any door required under this subsection shall have a positive latch and an automatic closing device and shall be kept closed. A spring of sufficient strength to close the door and activate the door latch shall be considered an automatic closing device for purposes of this paragraph.

(6) RAMP REQUIREMENTS. An AFH shall ensure all of the following:

(a) *Slope*. All exterior or interior ramps have a slope of not more than one foot of rise in 12 feet of run. Any ramps described under this paragraph shall have a slip-resistant surface and shall have no side slope.

(b) *Width*. Ramps are at least 4 feet wide, of which not more than 4 inches on each side may be occupied by a handrail.

(c) *Handrails*.

1. Ramps have a handrail on each side that are mounted between 34 inches and 38 inches above the ramp surface.

2. Handrails on unenclosed ramps include an intermediate parallel rail at mid−height between the handrail and ramp surface.

(d) *Clearance*. At any location where a ramp is provided to a doorway, the ramp on each side of the doorway is level for at least 5 feet from the door.

(e) *Platforms*. Ramps having a 1:12 slope have a level platform at 30−foot intervals. All ramps shall have level platforms at least 5 feet long where they turn and at least 5 feet by 5 feet level landing at the bottom of the ramp.

Subchapter IX — Safety

DHS 88.50 Resident safety requirements.

(1) An AFH shall have a written plan that establishes procedures to be followed in response to any of the following:

(a) An emergency situation involving a seriously ill resident.

(b) An emergency situation resulting from an accident involving a resident.

(c) A missing resident.

(2) An AFH shall make the written plan under sub. (1) available to all AFH employees.

DHS 88.51 Fire safety requirements.

(1) DEFINITION. In this section, "externally monitored" means, with respect to a smoke detection system, automatic notification of the local fire department by a listed monitoring company following activation of the smoke detection system.

(2) GENERAL REQUIREMENTS.

(a) *Class A AFHs*. A class A AFH shall do all of the following:

1. Equip at least one single station, battery-operated smoke detector located at each of the locations described under s. DHS 88.52 (4).

2. Maintain each required smoke detector in working condition and test each smoke detector monthly. If a smoke detector is found to be not operating, the licensee shall immediately replace the battery or immediately have the smoke detector repaired or replaced.

3. Maintain documentation of all smoke detectors tested under this paragraph, including the date tested, the location of the smoke detector, and initials of the individual who conducted the test.

(b) *Class B AFHs*. A class B AFH shall have all of the following:

1. An interconnected smoke detection system as required under s. DHS 88.52 (1).

2. At least one qualified resident care staff who is awake, on duty, and available at all times if at least one resident requires more than 2 minutes to evacuate the building. This subdivision does not apply if the class B AFH is equipped with an interconnected smoke detection system with external monitoring and battery backup power supply.

(c) *Existing Class C AFHs*. A class C AFH licensed before the effective date of this paragraph …. [LRB inserts date] shall have all of the following:

1. An interconnected smoke detection system as required under s. DHS 88.52 (1).

2. A smoke detection system with external monitoring and a battery backup power supply.

3. At least one qualified resident care staff who is awake, on duty, and available at any time if the evacuation capability of at least one resident is 4 minutes or more with or without verbal or physical prompting.

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4. An emergency and disaster plan under s. DHS 88.51 (3) that specifies evacuation of residents as the response to a fire. No AFH to which this paragraph applies may use a designated location within the AFH for rescue.

(d) New *Class C AFHs*. A class C AFH initially licensed beginning on the effective date of this paragraph … [LRB inserts date] shall have all of the following:

1. An interconnected smoke detection system as required under s. DHS 88.52 (1).
2. A sprinkler system as required under s. DHS 88.52 (5).
3. At least one qualified resident care staff who is awake, on duty, and available at any time if the evacuation capability of at least one resident is 4 minutes or more with or without verbal or physical prompting.

(3) EMERGENCY AND DISASTER PLAN.

(a) *Written plan*. An AFH shall have a written plan for responding to emergencies and disasters that is available to all employees and addresses likely emergencies the AFH may encounter based on location, including flood procedures if located in a flood zone. A written plan under this paragraph plan shall be developed in coordination with the local emergency management agency. A written plan under this paragraph shall include all of the following:

1. A current resident roster to aid in the emergency and disaster relocation process.
2. Procedures for orderly evacuation or sheltering during an emergency or disaster.
3. Procedures the AFH will follow in response to severe weather, including a tornado and flooding.
4. The location of an emergency shelter for the residents.
5. An available means of transporting residents to the emergency shelter.
6. Procedures for the provision of meals and medications to residents at the emergency shelter.

(b) *Succession plan for incapacitation of licensee*. An AFH shall have a written plan for responding to the incapacitation of the licensee to ensure continuity of operation and services to residents. A licensee shall review the written plan annually and update the plan as necessary. A written plan under this paragraph shall include all of the following:

1. The identity of the person who will notify all of the following within 24 hours of incapacitation of the licensee:
    a. The department.
    b. The residents or their legal representatives and case managers, as applicable.
2. The identity of the person or persons who will temporarily ensure operation of the AFH.
3. The location of resident records, resident medications, and how to access them.
4. Information regarding environmental safety systems, such as emergency door alarms.

(c) *Emergency and disaster procedures*. An AFH shall clearly communicate fire, tornado, flooding, and any other emergency or disaster procedures to a new resident within 72 hours after the resident's admission.

(d) *Fire drills*.

1. An AFH shall conduct fire evacuation drills at least quarterly with both employees and residents. Drills under this subdivision shall be limited to the employees scheduled to work at that time. An AFH shall document the date and time of the drill and the AFH's total evacuation time. An AFH shall document if any residents have an evacuation time greater than the time described under s. DHS 88.04 and the type of assistance needed for evacuation. Fire evacuation drills may be announced in advance.
2. An AFH shall conduct at least one fire evacuation drill annually that simulates the conditions during usual sleep hours. Drills under this subdivision shall be limited to the employees scheduled to work during the residents' normal sleeping hours.
3. If a resident cannot be safely evacuated from their bedroom, as determined by an AFH's assessment required under s. DHS 88.33 (2), the AFH may utilize a designated location within the AFH for rescue if all of the following apply:
    a. The AFH is licensed as a class C with an NFPA 13 automatic sprinkler system.
    b. The local fire department is notified with the identity of the residents using a designated location within the AFH for rescue.
    c. The local fire department is provided with an up-to-date floor plan identifying the designated location for those residents.
    d. The AFH has at least one qualified resident care staff who is awake, on duty, and

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available at any time and who is capable of assisting a resident to utilize a designated location within the AFH for rescue.

(e) *Other emergency drills*. An AFH shall conduct tornado, flooding, or other disaster drills at least semi-annually with both employees and residents and at different times of the day. Drills shall be limited to the employees scheduled to work at that time. Documentation shall include the date and time of the drill.

(f) *Posting of emergency phone numbers*. An AFH shall post the phone numbers for emergency services in a location that is easily accessible for use by AFH employees.

(4) FIRE EXTINGUISHERS.

(a) An AFH shall provide at least one portable dry chemical fire extinguisher with a minimum 2A, 10−B−C rating on each floor of the AFH. All fire extinguishers shall be maintained in readily usable condition. Inspections of the fire extinguisher shall be done by a qualified professional one year after initial purchase and annually thereafter. Each fire extinguisher shall be provided with a tag documenting the date of inspection.

(b) An AFH shall ensure all of the following with respect to provided fire extinguishers:

1. The fire extinguishers are mounted on a wall or a post or in an unlocked wall cabinet used exclusively for that purpose.

2 . The fire extinguishers are clearly visible.

3 . The route to the fire extinguishers is unobstructed and the top of the fire extinguishers are not over 5 feet high. No fire extinguisher may be tied down, locked in a cabinet, or placed in a closet or on the floor.

4 . Any fire extinguishers on upper floors are located at the top of each stairway. The extinguisher on the kitchen floor level shall be mounted in or near the kitchen.

(5) SMOKING. An AFH shall develop, implement, and clearly communicate to residents prior to admission, a written policy on smoking. The policy shall prohibit smoking in common and public areas of the AFH and may designate areas where smoking is permitted, if any. Designated smoking areas shall be well ventilated and have an approved receptacle for extinguishing smoking materials.

(6) VAPING. An AFH shall develop, implement, and clearly communicate to residents prior to admission, a written policy on vaping.

DHS 88.52 Fire protection systems.

(1) INTERCONNECTED SMOKE DETECTION SYSTEM.

(a) All class B or class C AFHs shall have an interconnected smoke detection system so that if any detector is activated, an alarm audible throughout the building will be triggered, except as provided under sub. (2).

(b) An AFH shall install and maintain smoke detectors in accordance with the manufacturer's recommendation. At the time of installation, and at any time the system is modified, the AFH shall obtain documentation from a licensed contractor or local municipality that the smoke detection system is operating in accordance with manufacturer's recommendations and complies with applicable building codes. The AFH shall maintain this documentation and make it available to the department upon request.

(c) Interconnected smoke detectors shall be tested by AFH staff, or by a monitoring company under contract with the AFH, according to manufacturer's recommendation, but not less than once every other month.

(d) An AFH shall maintain documentation of all maintenance of the detection system and required smoke detector testing. The documentation of the testing completed by the AFH staff, or by the monitoring company under contract with the AFH, shall include the date, location of device, and name of person conducting the test.

(2) RADIO−TRANSMITTING SMOKE DETECTION SYSTEM. An AFH may use an Underwriters Laboratories listed radio-transmitting detection system that triggers an alarm audible throughout the building and that is properly safeguarded against deactivation.

(3) MAINTENANCE.

(a) An AFH that has an interconnected smoke detection system shall ensure that the system is inspected, cleaned, and tested annually by certified or trained and qualified personnel in accordance with the specifications in NFPA 72 and the manufacturer's specifications and procedures.

(b) Sensitivity testing shall be performed at intervals in accordance with NFPA 72.

(c) All smoke detectors suspected of exposure to a fire condition shall be inspected, cleaned, and tested by a certified or trained and qualified person within 5 days after each exposure in accordance with the

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specifications in NFPA 72 and the manufacturer's specifications and procedures. Each detector shall operate within the manufacturer's intended response or it shall be replaced within 5 days after exposure to a fire condition.

(4) LOCATION. All AFHs shall have at least one smoke detector located at each of the following locations:

(a) At the top of every open stairway.

(b) Outside of every enclosed stairway on each floor level.

(c) Spaced not more than 30 feet apart in every hallway, and not further than 15 feet from any wall or in accordance with the manufacturer's separation specifications.

(d) In each common use room, including a living room, dining room, family room, lounge, and recreation room, but excluding a kitchen or bathroom.

(e) In each bedroom.

(f) In all non-resident living areas.

(g) In the furnace and laundry room.

(h) In an unfinished basement, or in each room of a finished basement.

(5) SPRINKLER SYSTEMS.

(a) *Requirement for applicable AFHs.* All class C AFHs initially licensed by the department beginning on the effective date of this paragraph …. [LRB inserts date] shall have a complete automatic sprinkler system.

(b) *Location of sprinklers.* All sprinkler systems under this subsection shall be equipped with residential sprinkler heads in all bedrooms, apartments, all other habitable rooms, hallways, laundries, storage spaces, utility rooms and administrative offices or as required per NFPA 13 – 2013, NFPA 13 D –2013 and NFPA 13R –2013 editions.

(c) *Type of sprinkler system.* A class C AFH to which par. (a) applies shall use one of the following sprinkler systems, as applicable:

1. A complete NFPA 13D residential sprinkler system.
2. A complete NFPA 13R residential sprinkler system.
3. A complete NFPA 13 automatic sprinkler system.

(d) *Installation and maintenance*.

1. All sprinkler systems shall be installed by a state-licensed sprinkler contractor. An AFH shall ensure that all sprinkler systems are maintained, inspected, and tested at least annually.
2. A sprinkler system flow alarm shall be connected to the AFH's smoke detection system.
3. At the time a sprinkler system is installed, and at any time the system is modified, an AFH shall obtain documentation from the licensed contractor who installed or modified the system or the local municipality that the sprinkler system is operating in accordance with manufacturer's recommendations and complies with applicable building codes. The AFH shall maintain this documentation and make it available to the department upon request.

(e) *Reliable water supply.* All sprinkler systems shall have a reliable water supply. If a sprinkler system requires a mechanical device such as a pump, it shall be supplied by a reliable source of emergency power in accordance with NFPA 20.

(f) *Records.* An AFH shall retain documentation of all maintenance of the sprinkler system and of all required testing.

Subchapter X — Building Standards

DHS 88.53 Codes. The following codes and standards are adopted as part of these rules and incorporated by reference:

(1) Wisconsin Commercial Building Code, chs. SPS 361 to 366, current edition.

(2) NFPA 72, National Fire Alarm Code, 2013 edition.

(3) NFPA 13, Standard for the Installation of Sprinkler Systems, 2013 edition.

(4) NFPA 13R, Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height, 2013 edition.

(5) NFPA 13D, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes, 2013 edition.

(6) Wisconsin Uniform Dwelling Code, ch. SPS 321.

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DHS 88.54 New construction, remodeling, or newly licensed existing structures.

(1) In this section:

(a) “Remodeling” means to make over or rebuild a portion of a building, structure, or room, thereby modifying its structural strength, fire hazard character, exiting, heating and ventilating systems, electrical system, fire alarm and fire protection systems, call system, internal circulation or use as previously approved by the local authority Construction of interior walls shall be considered remodeling.

(b) "Remodeling" does not include minor repairs necessary for the maintenance of a building such as replacing like components of existing systems, redecorating existing walls or replacing floor finishes.

(2) A licensed AFH that completes remodeling of the building, structure, or a room shall meet the requirements of this subchapter.

(3) New construction or newly licensed existing structures intended to be operated as an AFH shall meet the requirements of this subchapter. Building systems shall be installed in accordance with all standards referenced under s. DHS 88.53. Systems include heating, ventilation and air conditioning, plumbing, electrical and fire protection.

(4) If required by the department of safety and professional services or a regional or local municipality, an AFH shall have on file an inspection report signed by an authorized agent demonstrating that the AFH is in compliance with applicable building codes.

SECTION 2. INITIAL APPLICABILITY.

(1) In this section:

(a) “Adult family home” has the meaning given in s. DHS 88.02 (5).

(b) “Applicant” has the meaning given in s. DHS 88.02 (9).

(2) This rule first applies to adult family homes licensed on the effective date of this subsection and to applicants who have submitted a complete application for licensure as an adult family home prior to the effective date of this subsection on the day that is one year from the effective date of this subsection.

SECTION 3. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register, as provided in s. 227.22 (2) (intro.), Stats.

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