



Jim Doyle
Governor

Karen E. Timberlake
Secretary

State of Wisconsin
Department of Health Services

1 WEST WILSON STREET
P O BOX 2969
MADISON WI 53701-2969

Telephone: 608-266-8481
FAX: 608-267-0352
TTY: 888-241-9432
dhs.wisconsin.gov

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To: Adult Day Care
Adult Family Homes
Community-based Residential Facilities
Residential Care Apartment Complexes

ADC 03
AFH 06
CBRF 08
RCAC 06

From: Kevin Coughlin, Director
Bureau of Assisted Living

Via: Otis Woods, Administrator
Division of Quality Assurance

Changes in 2010 to WI Clean Indoor Air Act and the Effect on Assisted Living Facilities

Effective July 5, 2010, an amendment to the Wisconsin Clean Indoor Air Act (Wis. Stat. § 101.123) will prohibit smoking in common and public areas of assisted living facilities in Wisconsin.

As amended, Wis. Stat. § 101.123(2) prohibits smoking in certain enclosed places, including all enclosed places that are places of employment or that are public places. Subsections 101.123(3)(j) and (i) allow the following exceptions to prohibitions against smoking in assisted living facilities¹:

- a room used by only one person in an assisted living facility as his or her residence; or
- a room in an assisted living facility in which two or more persons reside if every person who lives in the room smokes and each of those persons has made a written request to the person in charge of the assisted living facility to be placed in a room where smoking is allowed.

After July 5, 2010, smoking will be prohibited in facility offices, work areas, employee lounges, restrooms, and conference and meeting rooms.

¹ Per Wis. Stat §101.123(1)(ab) "assisted living facility" means a community-based residential facility, a residential care apartment complex, or an adult family home.

After July 5, 2010, assisted living facilities may choose to become a smoke-free facility, allow smoking in resident rooms per Wis. Stats. §§ 101.123(3)(i) and 101.123(3)(j), and/or designate an outdoor smoking area.

Assisted living facilities that currently have a policy allowing smoking in designated areas within the facility will need to revise the policy per the above guidelines. Residents will need to be given notice of any changes in accordance with applicable administrative code. Current residents are **not grandfathered** for smoking inside the facility.

Designated outdoor smoking areas must meet the following criteria:

- The area must be provided with an adequate number of ash trays made of non-combustible material.
- Oxygen tanks should not be allowed in the area.
- If the area is designed for protection from the weather, the area may not meet the definition of an “enclosed space”. If the area meets the definition of an enclosed space, smoking would be prohibited within that area.

Wis. Stat. § 101.123(2m) specifies that **no person in charge may allow any person to smoke in violation of the Wisconsin Clean Indoor Air Act.**

Finally, the Clean Indoor Air Act does not limit the authority of any county, city, village or town to enact ordinances complying with the purpose of the Act to protect the health and comfort of the public. Assisted living facilities need to keep in compliance with local regulation as well as state law.

If you have any questions, please contact the Assisted Living Regional Director in your region at: http://dhs.wisconsin.gov/rl_dsl/Contacts/ALSreglmap.htm