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To: All Interested Parties

From: Kevin Coughlin, Director
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Via: Otis Woods, Administrator
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Licensing Threshold Guidelines for Assisted Living Facilities

Background

The Bureau of Assisted Living determines the need for licensure of a community living arrangement based on the following definitions:

Ch. 50.01(1)(b) defines an Adult family home (AFH) as “[a] place where 3 or 4 adults who are not related to the operator reside and receive care, treatment or services that are above the level of room and board and that may include up to 7 hours per week of nursing care per resident.”

Ch. 50.01(1g) defines a Community-based residential facility (CBRF) as “[a] place where 5 or more adults who are not related to the operator or administrator and who do not require care above intermediate level nursing care reside and receive care, treatment or services that are above the level of room and board but that include no more than 3 hours of nursing care per week per resident.”

Ch. 50.01(1d) defines a Residential care apartment complex (RCAC) as “[a] place where 5 or more adults reside that consists of independent apartments, each of which has an individual lockable entrance and exit, a kitchen, including a stove, and individual bathroom, sleeping and living areas, and that provides, to a person who resides in the place, not more than 28 hours per week of services that are supportive, personal and nursing services.”

Purpose

The Bureau of Assisted Living continues to receive inquiries related to the need for licensure of community living arrangements having unique physical layouts, program services and staffing patterns.

This memo provides a description of various scenarios that have been reviewed, and Bureau of Assisted Living's determination regarding licensure. Each individual scenario was evaluated based on distinct characteristics of the living arrangement and the statutory definitions above.

In considering the attached guidelines for licensure, it is important to note the following:

- Any community living arrangement configuration not described will require a determination by the Bureau of Assisted Living.
- All final licensing decisions remain the responsibility of the Bureau of Assisted Living.
- It is assumed that all persons living in the referenced community living arrangements are receiving services that are above the level of room and board or are receiving supportive, personal and/or nursing services.

If you have questions regarding this information, please contact the Assisted Living Regional Director for the appropriate Bureau of Assisted Living region. Contact information can be found at: http://dhs.wisconsin.gov/rl_DSL/Contacts/ALSreglmap.htm

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BUREAU OF ASSISTED LIVING LICENSING THRESHOLD GUIDELINES

SCENARIO	DETERMINATION
1. Side-by-side units, two people on each side; interior door access between units; shared staff.	Requires 4-bed AFH licensure
2. Up-down units, two people in each unit; interior door access between units; shared staff.	Requires 4-bed AFH licensure
3. Side-by-side units, two people on each side; no interior door access between units; shared staff.	AFH licensure not required
4. Up-down units, two people in each unit; no interior door access between units; shared staff.	AFH licensure not required
5. Side-by-side units, two people on each side; interior door access + between units; no shared staff.*	AFH licensure not required
6. Up-down units, two people in each unit; interior door access + between units; no shared staff.*	AFH licensure not required
7. Side-by-side units, two people on each side; no interior door access between units; no shared staff.*	AFH licensure not required
8. Up-down units, two people in each unit; no interior door access between units; no shared staff.*	AFH licensure not required
9. Side-by-side units, two people in each unit; no interior door access; dedicated staff during day, shared staff at night.	AFH licensure not required
10. Up-down units, two people in each unit; no interior door access; dedicated staff during day, shared staff at night.	AFH licensure not required
11. Side-by-side units, separated by a garage, two people in each unit.	AFH licensure not required (does not provide interior access)
12. Side-by-side units, four people in each unit; interior door access; shared staff.	Requires licensure as an 8-bed CBRF
13. Side-by-side units, four people in each unit; no interior door access; no shared staff.*	Licensure required as two 4-bed AFHs
14. Side-by-side units, four people in each unit; interior door access +; no shared staff.*	Licensure required as two 4-bed AFHs
15. Up-down units, four people in each unit; interior door access; shared staff.	Requires licensure as an 8-bed CBRF
16. Up-down units, four people in each unit; no interior door access; shared staff.	Not licensable as two 4-bed AFHs because staff cannot be shared between two 4-bed AFHs; Not licensable as an 8-bed CBRF because there is no interior door access
17. Up-down units, four people in each unit; interior door access +; no shared staff.*	Requires licensure as two 4-bed AFHs
18. Up-down units, four people in each unit; no interior door access; no shared staff.*	Requires licensure as two 4-bed AFHs
19. Side-by-side units separated by a garage, four people in each unit.	Not licensable as a CBRF because it does not provide interior access; Licensable as two 4-bed AFHs and staff would be required on each side
20. Persons receiving respite care in a 1-2 bed certified AFH.	Does not require licensure as an AFH because there are not 3 or 4 people living there permanently
21. Persons receiving respite care in a 4-bed AFH or a CBRF.	The number of residents plus the number of persons receiving respite care cannot exceed the capacity of the AFH or CBRF

22. 4-bed AFH attached to an 8-bed CBRF.	Requirements in DHS 83.57(1)(b) must be met
23. Four independent apartments providing care and services above the level of room and board for 5 people.	Not an RCAC – an RCAC must consist of 5 independent apartments
24. Individual apartment or apartments situated within an apartment complex, providing care and services above the level of room and board for 3 to 4 people; No shared staff.*	Each individual apartment is a 3 or 4-bed AFH only if each apartment has 2 exits
25. Individual apartment or apartments situated within an apartment complex, providing care and services above the level of room and board for 3 to 4 people per apartment; shared staff.	Prohibited
26. Facility providing respite care services only, regardless of the number of people served.	If a facility is providing respite care services only, the length of stay does not exceed 28 days and the facility is not the person's residence, the facility does not require state licensure
27. One roof/one license- two CBRFs in one structure.	Policies pertaining to "one roof-one license" were created prior to DHS 83. There currently exists no statutory or code provisions prohibiting the licensure of two CBRFs under 'one roof'. Note: Must meet the requirements of DHS 83.57(1)(b) and may not share staff between the 2 licensed CBRFs.
28. Triplex or quadruplex apartments; occupancy of each unit is up to 2; no interior access and no common space.	Triplex and quadruplex apartments do not meet the threshold definition of a minimum of 5 independent units required for that of an RCAC. Each apartment unit is considered "a place" for the purpose of determining licensure definition. The occupancy of each unit in both the triplex and quadruplex apartments is up to 2 tenants, which is less than the 3 or 4 unrelated adults required to be licensed as an AFH. Does not meet the definition of a CBRF.
29. Apartment complex consisting of 5 units; 1 or 2 people per unit; staff resides in the 5 th unit.	As long as the 5 th unit is occupied by staff, this would not meet the definition of an RCAC. Does not meet the definition of a CBRF as there is no interior access and no common space.
30. Apartment complex; 1 to 4 people in each apartment; interspersed; shared staff	Can't be licensed as an AFH because of shared staff Does not meet CBRF requirement at DHS 83.57(1)(b) Could be an RCAC if there are 5 or more apartments

***No shared staff:** The term "no shared staff" means that programs have essential/separate staff; separate programming, separate budgets, separate living situations, and that staff do not travel back and forth to work between units. The program is intended to be two or more separate living situations. Additional float staff may work between units.

+Interior Door Access: Staff and/or residents **do not** travel back and forth between living units. Each unit operates as a **separate** program.

Side-by- side/Up-down units: The term "side-by-side" or "up-down" means a dwelling built per Chapter Comm 20-25 One and Two Family Dwellings Standards.