



Date: April 1, 2021

DQA Memo 21-003

To: Community Based Residential Facilities

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

Via: Otis Woods, Administrator  
Division of Quality Assurance

### Community-Based Residential Facilities & Crisis Stabilization

The purpose of this memo is to provide information and guidelines to Community-Based Residential Facilities (CBRF) that provide crisis stabilization services under DHS 34. Wisconsin Statutes, Chapter 50 and Wis. Admin. Code ch. DHS 83, demonstrate that CBRFs were designed to serve as long term placement settings of more than 28 days with the option to provide respite and/or crisis stabilization level of care, treatment or services (less than 28 days).

#### Statutory and Administrative Code References

Wisconsin Statutes, Ch. 50.01(1g) defines a community-based residential facility 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.

DHS 83.02(45) defines "reside" as the intent to remain in the CBRF permanently or continuously for more than 28 consecutive days.

DHS 83.03 Variance and waiver.

(1) In this section:

- (a) "Variance" means the granting of an alternate means of meeting a requirement in this chapter.
- (b) "Waiver" means the granting of an exemption from a requirement of this chapter.

(2) Exception to a requirement.

- (a) The department may grant a waiver or variance if the department determines that the proposed waiver or variance will not jeopardize the health, safety, welfare or rights of any resident.
- (b) A written request for a waiver or variance shall be sent to the department and include justification that the waiver or variance will not adversely affect the health, safety or welfare of any resident for the requested action.
- (c) A written request for a variance shall include a description of an alternative means planned to meet the intent of the requirement.

- (3) The department may rescind a waiver or variance if any of the following occurs:
- (a) The department determines the waiver or variance has adversely affected the health, safety or welfare of the residents.
  - (b) The CBRF fails to comply with any of the conditions of the waiver or variance as granted.

## **Resolution**

Waivers and variances may be granted by the department in accordance with the process detailed in DHS 83.03. To effectuate this process DQA/BAL will review requests for a waiver and/or variance based on the following.

### *New CBRF Applicants providing Crisis Services*

CBRFs that provide *both* care and treatment or services for more than 28 consecutive days *and* respite/crisis stabilization services less than 28 days must submit a variance request specific to the short-term placements with their application for a CBRF license:

- DHS 83.31. (variance) This variance requires the provider to provide notice (less than 30 days) to a short-term resident receiving crisis services prior to discharge. The provider must provide assistance in relocating the resident and ensure that a living arrangement suitable to meet the needs of the resident is available before discharging the resident. This variance does not apply to long-term placements (more than 28 days).

### *New Crisis-only CBRF Applicants*

CBRFs that provide *only* crisis stabilization services are able to achieve and maintain a CBRF license under the provision of respite services. New applicants for crisis stabilization only facilities must submit both a waiver and variance request with their application for a CBRF license:

- DHS 83.02(45) (waiver). This waives the licensing threshold of the intent to reside in the CBRF permanently or continuously for more than 28 consecutive days.
- DHS 83.31. (variance) This variance requires the provider to provide notice (less than 30 days) to the resident receiving crisis services prior to discharge. The provider must provide assistance in relocating the resident and ensure that a living arrangement suitable to meet the needs of the resident is available before discharging the resident.

### *Existing CBRFs*

At the time of license renewal, existing CBRFs that provide crisis services will submit the variance request specific to short-term placements. At the time of license renewal, existing crisis-only CBRFs will submit a waiver and variance of the above regulations.

## **Questions**

If you have questions regarding this information, please contact the Bureau of Assisted Living Regional Director at the Regional Office where your facility is located.