



September 27, 2004

Laurie Arkens  
Bureau of Quality Assurance  
200 North Jefferson, Suite 211  
Green Bay, WI 54301



Dear Laurie,

SENT VIA EMAIL

Thanks again for the opportunity to review:

- Subchapter I – General Overview
- II – Operations, and
- III – Admissions, Transfers and Discharge.

Attached are the comments from the WALA HFS-83 Rewrite Committee. To keep the various drafts straight in our reviewer's attention, we are referring to the July draft as Part 1 and this as Part 2. We will refer internally to the materials on 83.14 provided at the A L Forum on September 14 as Part 3.

A few observations:

- There are many things in this section, especially definitions, that we cannot make judgment until we see how it is used in future code revision drafts. So, we will make later comments on the definitions as we see them in context.
- 83.23 ended at "(3) Required Referral" with the note on the COP program. Was that the end of this section or was something left off? We could not tell.
- 83.24 Discharge or transfer was not in any of your attachments, and we assume it will be forthcoming.
- There a number of improvements in care that we support, even though we may have some members who will not. For instance:
  - A "significant change in a resident's condition" is now pronounced deterioration in 1 or more activities of daily living rather than 3;
  - Change of 3 hours of nursing care for no more than 30 days, rather than current 90 days;
  - A facility may not have more than a total of more than 4 residents or 10% of the facility's licensed capacity, whichever is greater, who qualify for care.

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Jim Murphy  
Executive Director



Thank You,

Jim Murphy  
WALA

cc: Kevin Coughlin, Cris Ros-Dukler

# HFS 83 RE-WRITE CODE REVISION REQUEST (E-Form)

Part 2 – September 2004

Request Number: \_\_\_\_\_

(To be assigned by re-write workgroup)

Code reference: **83.03 (61) Definitions**

Current HFS 83

Rule Draft Order

Addition

Change

Delete

**Describe:** This definition states that a “Qualified resident care staff is a person who has... successfully passed the relevant competency testing.”

**At this point, there is no competency testing defined and we understand that no decision has yet been made on competency. Do we understand this correctly?**

*WALA later note after the September 14 A L Forum. I guess there was a decision made after all!*

Submitted by:

Name: Jim Murphy

Agency: WALA, Wisconsin Assisted Living Association

Date: 9/27/04

The form may be e-mailed to Laurie Arkens at [arkenlj@dhfs.state.wi.us](mailto:arkenlj@dhfs.state.wi.us)

Or mail to: Laurie Arkens

200 North Jefferson, Suite 211

Green Bay, WI 54301

Review by workgroup:

Date: \_\_\_\_\_

Action: \_\_\_\_\_

Rationale:

# HFS 83 RE-WRITE CODE REVISION REQUEST (E-Form)

Part 2 – September 2004

Request Number: \_\_\_\_\_

(To be assigned by re-write workgroup)

Code reference: **83.04 (2) (d) 2. Applications and Processing**

Current HFS 83

Rule Draft Order

Addition

Change

Delete

**Describe:** We feel that this item is unnecessary as it has little potential to affect resident care. Therefore we suggest that the item be deleted, or add the words “that has direct resident contact” to the end of the sentence so that it reads “In a limited liability company, removing, adding, or substituting any member that has direct resident contact.”

Submitted by:

Name: Jim Murphy

Agency: WALA, Wisconsin Assisted Living Association

Date: 9/27/04

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Rationale: \_\_\_\_\_

# HFS 83 RE-WRITE CODE REVISION REQUEST (E-Form)

Part 2 – September 2004

Request Number: \_\_\_\_\_

(To be assigned by re-write workgroup)

Code reference: **83.04 (2) (d) 2 Application and Processing**

Current HFS 83

Rule Draft Order

Addition

Change

Delete

*Describe:* We feel that with sending an informational letter with a limited liability company removes, adds or substitute any member is excessive.

**Our reading of this requirement feels like overkill.**

*Submitted by:*

*Name:* Jim Murphy

*Agency:* WALA, Wisconsin Assisted Living Association

*Date:* 9/27/04

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*Review by workgroup:*

*Date:* \_\_\_\_\_

*Action:* \_\_\_\_\_

*Rationale:* \_\_\_\_\_

# HFS 83 RE-WRITE CODE REVISION REQUEST (E-Form)

Part 2 – September 2004

Request Number: \_\_\_\_\_

(To be assigned by re-write workgroup)

Code reference: **83.04 (10) (b) 4 Change of Ownership or License**

Current HFS 83

Rule Draft Order

Addition

Change

Delete

Describe: Typo “All l forfeitures...” should read “All forfeitures...”

**We all love typoos.**

Submitted by:

Name: Jim Murphy

Agency: WALA, Wisconsin Assisted Living Association

Date: 9/27/04

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Review by workgroup:

Date: \_\_\_\_\_

Action: \_\_\_\_\_

Rationale: \_\_\_\_\_

# HFS 83 RE-WRITE CODE REVISION REQUEST (E-Form)

Part 2 – September 2004

Request Number: \_\_\_\_\_

(To be assigned by re-write workgroup)

Code reference: 83.04 (10) (1) etc and (2) etc

Current HFS 83

Rule Draft Order

Addition

Change

Delete

*Describe:*

**Our concerns relate to the 30 day notice to the department and residents. Sometimes a transaction is contingent upon some event, such as approval of financing or completion of an environmental review. In some cases, these events delay closing until the event occurs but then closing occurs immediately. Many assisted living providers are reluctant to notify residents about the sale to a new owner until all contingencies are removed and closing is imminent because sales can fall apart at the last minute while buyers complete due diligence and wait for financing – if the sale fell apart, the owner may have unnecessarily notified the residents and their families and may have caused some distress with residents, particularly in home-like atmosphere common in CBRFs.**

**We suggest that more flexibility in (10) (b) 1 requiring 30 days notice to residents could help prevent unnecessary emotional concern by residents. We propose changing the 30 day requirement in the following way:**

- 1. Modify the seller's requirement to notify the department at the earlier of (a) 30 days in advance of the transfer of ownership, or (b) upon submission of the buyer's license application.**
- 2. Keep the seller's requirement to notify contracted entities 30 days in advance.**
- 3. Modify the seller's requirement to notify residents or their legal representatives at the later of (a) 30 days in advance of the transfer of ownership, or (b) when all contractual conditions precedent to closing and the transfer of ownership have been satisfied but in no event less than 7 days in advance of the transfer of ownership.**
- 4. Add a provision to protect residents that if there is less than 30 days notice of a transfer of ownership, then neither the current licensee nor proposed licensee may enforce any advance notice requirement for discharge. This will allow residents to choose, without penalty, whether they wish to continue living in the facility after the transfer of ownership.**

**We believe these changes would help protect residents and their families from the often emotional time when a facility is sold, and also protect those residents right to choose providers without penalty.**

*Submitted by: Name: Jim Murphy Agency: WALA, Wisconsin Assisted Living Association*

*Date: 9/27/04*

*Review by workgroup:*

*Date: \_\_\_\_\_*

*Action: \_\_\_\_\_*

*Rationale: \_\_\_\_\_*

# HFS 83 RE-WRITE CODE REVISION REQUEST (E-Form)

Part 2 – September 2004

Request Number: \_\_\_\_\_

(To be assigned by re-write workgroup)

Code reference: **83.04 (10) (5) (c)**

Current HFS 83

Rule Draft Order

Addition

Change

Delete

**Describe:** We request clarification on who is responsible for correcting and verifying reported deficiencies prior to issuing a license to the buyer.

“...deficiencies reported in the departmental inspection be corrected and verified by (whom???) prior to issuing a license to the buyer.”

Submitted by:

Name: Jim Murphy

Agency: WALA, Wisconsin Assisted Living Association

Date: 9/27/04

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Action: \_\_\_\_\_

Rationale: \_\_\_\_\_

# HFS 83 RE-WRITE CODE REVISION REQUEST (E-Form)

Part 2 – September 2004

Request Number: \_\_\_\_\_

(To be assigned by re-write workgroup)

Code reference: **83.11 (2) (f) Licensee Responsibilities**

Current HFS 83   Rule Draft Order

Addition  Change  Delete

*Describe:* The current rule requires positing of citation and enforcements for 30 days following receipt or until compliance is achieved, whichever is longer and upon request for 12 months.

We do not understand the reason for this major change. We feel that the regulations for assisted living should NOT be more prescriptive - as we read them - than the Nursing Home regulations and that the 30 days is sufficient.

In addition, in the new Provider Profiles on-line with BQA, they will be available for a much longer length of time for those interested.

As you know, most A L providers take a survey and deficiencies to heart and we suggest that this is not in the spirit of "teamwork" with BQA but would be arbitrary, putative and regressive.

Submitted by: Name: Jim Murphy

Agency: WALA, Wisconsin Assisted Living Association

Date: 9/27/04

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Green Bay, WI 54301

Review by workgroup:

Date: \_\_\_\_\_

Action: \_\_\_\_\_

Rationale: \_\_\_\_\_

# HFS 83 RE-WRITE CODE REVISION REQUEST (E-Form)

Part 2 – September 2004

Request Number: \_\_\_\_\_

(To be assigned by re-write workgroup)

Code reference: **83.11 (2) (g) Licensee Responsibilities**

Current HFS 83

Rule Draft Order

Addition

Change

Delete

**Describe:** The current regulations state that results for the preceding 12 months must be made available upon request.

What is the rationale behind the change to two years? Again, we suggest that this is not in the spirit of “teamwork” with BQA but would be also arbitrary, putative and regressive.

Submitted by:

Name: Jim Murphy

Agency: WALA, Wisconsin Assisted Living Association

Date: 9/27/04

The form may be e-mailed to Laurie Arkens at [arkenlj@dhfs.state.wi.us](mailto:arkenlj@dhfs.state.wi.us)

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Green Bay, WI 54301

Review by workgroup:

Date: \_\_\_\_\_

Action: \_\_\_\_\_

Rationale: \_\_\_\_\_

# HFS 83 RE-WRITE CODE REVISION REQUEST (E-Form)

Part 2 – September 2004

Request Number: \_\_\_\_\_

(To be assigned by re-write workgroup)

Code reference: **83.11 (4) Administrator Responsibilities**

Current HFS 83

Rule Draft Order

Addition

Change

Delete

Describe: **Typo: “ADMINISTRATOR RESPONSIBILITIES” should be “ADMINISTRATOR RESPONSIBILITIES”**

**To addition, we support these minimal additional qualifications in (3).**

Submitted by:

Name: Jim Murphy

Agency: WALA, Wisconsin Assisted Living Association

Date: 9/27/04

The form may be e-mailed to Laurie Arkens at [arkenlj@dhfs.state.wi.us](mailto:arkenlj@dhfs.state.wi.us)

Or mail to: Laurie Arkens

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Green Bay, WI 54301

Review by workgroup:

Date: \_\_\_\_\_

Action: \_\_\_\_\_

Rationale: \_\_\_\_\_

# HFS 83 RE-WRITE CODE REVISION REQUEST (E-Form)

Part 2 – September 2004

Request Number: \_\_\_\_\_

(To be assigned by re-write workgroup)

Code reference: 83.13 (2) Resident Health

Current HFS 83   Rule Draft Order

Addition  Change  Delete

*Describe:* This document leaves discretion up to facility as determined by their risk group. It does require admission/on-hire screening and then follow-up according to risk group. So the new rule is less prescriptive. We were surprised there was no reference to OHSA guidelines as original order referred to.

After further investigation into HOSE and the core curriculum we believe each facility has decisions to make regarding screening based on factors related to their county population exposure as well as facility exposure.

In conclusion we would be curious to know why the switch from OHSA to CDC Core Curriculum. We are for less prescriptive language; however we have some serious concerns about how facilities will interpret or even understand what the Core Curriculum is.

NOTE - If BQA does use CDC Core Curriculum, the link should be listed in the code at this point to make cross reference easier.

*Submitted by:*

*Name:* Jim Murphy *Agency:* WALA, Wisconsin Assisted Living Association

*Date:* 9/27/04

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*Date:* \_\_\_\_\_

*Action:* \_\_\_\_\_

*Rationale:* \_\_\_\_\_

# HFS 83 RE-WRITE CODE REVISION REQUEST (E-Form)

Part 2 – September 2004

Request Number: \_\_\_\_\_

(To be assigned by re-write workgroup)

Code reference: **83.16 (3) (a) Other Reporting**

Current HFS 83

Rule Draft Order

Addition

Change

Delete

Describe: **Typo: “When a resident’s whereabouts is unknown, .“ (extra period) the facility...” should be “When a resident’s whereabouts is unknown, the facility...”**

Submitted by:

Name: Jim Murphy

Agency: WALA, Wisconsin Assisted Living Association

Date: 9/27/04

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Review by workgroup:

Date: \_\_\_\_\_

Action: \_\_\_\_\_

Rationale: \_\_\_\_\_

# HFS 83 RE-WRITE CODE REVISION REQUEST (E-Form)

Part 2 – September 2004

Request Number: \_\_\_\_\_

(To be assigned by re-write workgroup)

Code reference: **83.17 (b) Record Retention**

Current HFS 83

Rule Draft Order

Addition

Change

Delete

*Describe:* **Our research shows different time frames for different types of records. We suggest that you request BQA legal counsel to research, if they have not already done so. If resident records retained for 7 years and employee records for 3 years, please indicate why these time frames were chosen.**

*Submitted by:*

*Name:* Jim Murphy

*Agency:* WALA, Wisconsin Assisted Living Association

*Date:* 9/27/04

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*Green Bay, WI 54301*

*Review by workgroup:*

*Date:* \_\_\_\_\_

*Action:* \_\_\_\_\_

*Rationale:* \_\_\_\_\_

# HFS 83 RE-WRITE CODE REVISION REQUEST (E-Form)

Part 2 – September 2004

Request Number: \_\_\_\_\_

(To be assigned by re-write workgroup)

Code reference: **83.21 (2) (a) 4.d. Admission and Retention Limits**

Current HFS 83

Rule Draft Order

Addition

Change

Delete

Describe: **We approve of your change to.** “A facility may not have more than a total of more than 4 residents or 10% of the facility’s licensed capacity, whichever is greater, who qualify for care.”

Submitted by:

Name: **Jim Murphy**

Agency: **WALA, Wisconsin Assisted Living Association**

Date: 9/27/04

The form may be e-mailed to Laurie Arkens at [arkenlj@dhfs.state.wi.us](mailto:arkenlj@dhfs.state.wi.us)

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Review by workgroup:

Date: \_\_\_\_\_

Action: \_\_\_\_\_

Rationale: \_\_\_\_\_

# HFS 83 RE-WRITE CODE REVISION REQUEST (E-Form)

Part 2 – September 2004

Request Number: \_\_\_\_\_

(To be assigned by re-write workgroup)

Code reference: **83.22 (1) (a) Notification of Services**

Current HFS 83

Rule Draft Order

Addition

Change

Delete

Describe: **Thank you for your attention to this matter. We approve of your change.**

Submitted by:

Name: Jim Murphy

Agency: WALA, Wisconsin Assisted Living Association

Date: 9/27/04

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Review by workgroup:

Date: \_\_\_\_\_

Action: \_\_\_\_\_

Rationale: \_\_\_\_\_

# HFS 83 RE-WRITE CODE REVISION REQUEST (E-Form)

Part 2 – September 2004

Request Number: \_\_\_\_\_

(To be assigned by re-write workgroup)

Code reference: 83.23 Information Required Prior to Admission

Current HFS 83  Rule Draft Order

Addition  Change  Delete

*Describe:* There is some confusion on what paperwork is required for pre-admission or COP assessments. We encourage you to bring this up for discussion at the next Assisted Living Forum.

The preadmission assessment under 46.27 is the CBRF Preadmission Assessment, NOT COP assessment. They are two different assessments. Some counties may be doing them as the same time but they are different. This addition certainly clarifies what the facility responsibilities are. At 83.23(2) - shouldn't it read: For CBRFs that are "ineligible" for COP.....

The NOTE at the bottom of the page clarifies that the CBRF Preadmission Assessment under 46.27 must be done in order for residents to be eligible for COP assessment or funding. It goes on to say the Family Care program preadmission consultation is under another statute.

So in conclusion, although this is new, it is something we all should have been doing for some time, as this became effective January 1, 1999.

*Submitted by:*

*Name:* Jim Murphy *Agency:* WALA, Wisconsin Assisted Living Association

*Date:* 9/27/04

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*Rationale:* \_\_\_\_\_