Subject	Nursing Homes	CBRFs	RCACs
Who We Serve	HFS 132. 13 (28): "Resident" means a person *cared for* or *treated* in any facility on a 24-hour basis irrespective of how the person has been admitted to the facility. **Provider Perspective:** One key differentiation between a nursing home resident and residents/ tenants of a CBRF or RCAC is that nursing home residents often do not have a choice in being admitted to a nursing home. Admissions are frequently based on an unanticipated physical setback, or a health crisis of some sort. In the nursing home setting, choices are limited due to the stringent nature of nursing home regulation. Providers are inclined to "protect" nursing home residents given the nature of the statutes and costs under which they operate. Unlike nursing home regulations, which primarily are driven by federal law, CBRF and RCAC regulations are state-driven and provide for greater opportunities for provider/regulator collaboration and the sharing of technical assistance.	HFS 83.04 (53): "Resident" means an adult unrelated to the licensee or administrator who lives and sleeps in the facility and receives care, treatment of services *in addition to room and board* **Provider Perspective:** It should also be noted that because the CBRF regulations govern a variety of different client populations (i.e., elderly, persons with physical and developmental disabilities, corrections, AODA treatment, chronically mentally ill, etc), CBRF rules are somewhat more extensive than nursing home regulations. CBRFs generally serve a more diverse population than nursing homes.	HFS 89.13 (32): "Tenant" means an individual who resides in and has a service agreement with a residential care apartment complex. **Provider Perspective**: The creation of the residential care apartment complex (then referred to as an "assisted living facility") was authorized under 1995 Wisconsin Act 27, the 1995-97 biennial budget. The Legislature created the RCAC as a congregate replica of one's own home, a "house" where needed services could be delivered to the RCAC tenant just as they would be to an individual living in their own house or a tenant in their own apartment. The philosophy behind the RCAC was to treat this entity as housing with services, not as another regulated health care setting such as a CBRF or a nursing home. The intended regulatory distinction between a RCAC and other health care settings was clearly delineated in a May 17, 1995 issue paper (Paper #533 "Assisted Living Initiative") written by the Legislative Fiscal Bureau. The issue paper states in part: "The Administration states an objective in establishing the assisted living (RCAC) initiative…is to avoid creating another highly-regulated type of facility in the long-term care industry. Since assisted living would involve independent residential units controlled by residents

*The citations listed in this section are not and are not intended to be all -inclusive. They are listed to emphasize areas of statutory and regulatory differences between nursing homes, CBRFs and RCACs.

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			with services individually established by a private contract, the Administration notes that it is not necessary to impose a highly-regulated structure.”
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Program Philosophy	Authority -HFS.132.11/s.50.02(2), Stats. Rule is established to enforce regulations and standards for the care, treatment, health safety, rights, welfare and comfort of residents. *Rule is established to promote safe and adequate accommodation, care and treatment and to promote and enforce rules. In addition to the HFS 132 regulations, extensive federal statutes, regulations and interpretive guidelines, many of which are the product of the 1987 federal OBRA nursing home reform initiatives, significantly dictate the oversight of nursing homes. **Provider Perspective:** While there is no statement of purpose under HFS 132, as there is in HFS 83 and 89, there is reference to s.50.02, Stats. In the Uniform Licensure Statute, the department is authorized to develop and enforce regulations for nursing homes (and community-based residential facilities) for the purpose of promoting safe and adequate accommodations, and care and treatment for residents. (s.50.02 (2)(a)). Since this statute directed the DHFS to promulgate rules to enforce regulations	Authority and Purpose – HFS 83.01 *Rule is written to safeguard and promote the health, safety, well-being, rights and dignity of each resident. *Rule is intended to **ensure** a living environment for residents which is as homelike as possible and is the least restrictive of each resident’s freedom as is compatible with the resident’s need for care and services. *Rule is intended to encourage resident to move towards functional independence in daily living. *Rule is aimed at developing a range of CBRFs designed to provide care, treatment and other services to persons who need supportive or protective services or supervision because they cannot or do not wish to live independently yet do not need a hospital or a nursing home. **Provider Perspective:** While CBRFs are combined with nursing homes under s.50.02 (2) for purposes of rule establishment and enforcement, there is some additional conditional consideration given to CBRFs as it relates to the department establishing standards and regulations.	Authority and Purpose-HFS 89.11 *Rules are established to promote health and safety of persons residing in **and** receiving services. *Rules are intended to ensure a setting that is home-like and residential in character. *Rule is established to make sure personal supportive and nursing services are **available** to meet the appropriate needs, abilities and preferences of individual tenants. *Rules are established to protect tenant rights, respect privacy, enhance tenant self-reliance and support tenant autonomy in decision-making, including the right to accept risk. **Provider Perspective:** The purpose of the RCAC rule is to provide a home-like setting and to make sure personal, supportive and nursing services are **available** to meet the appropriate needs and abilities of individual tenants based on their expressed preferences. Further, the rule was established to enhance tenant self-reliance and support tenant autonomy in decision-making, including the right to accept risk. While there is a regulatory minimum amount of service that must be made

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Program Philosophy (continued)	and standards of care, treatment, health safety, rights, welfare and comfort of residents, one could conclude that the regulatory environment/rule would concentrate heavily on what constitutes a safe environment as it relates to both the physical environment and the health safety environment. This environment of skilled care is based on a "medical" model. The rule enforces this philosophy by specifying very detailed service and staff requirements that reflect the higher complexity and skilled needs of the resident. Creating a home-like environment in a nursing home has not been defined as a purpose for regulation in this setting. In addition, the federal statutes and codes which also regulate nursing homes limit both the flexibility in which care and services are provided and the flexibility of State oversight agencies to utilize their own methods of ensuring quality care is being provided.	Unlike the nursing home regulations and statute, s.50.02 (3)(b) recognizes that size and structure will influence the ability of CBRFs to provide a home-like environment and encourages the department to develop rules to the extent possible to integrate residents into the community and provide a home-like setting. So, while the purpose of the rule is to safeguard and promote the health, safety, and well-being of the resident (HFS 83.01), ***the rule is intended to ensure a living environment for residents which is home-like and the least restrictive (HFS 83.01).*** The rule is intended to encourage residents to move towards functional independence in daily living and ***also makes reference to persons who need supportive or protective services or supervision because they do not wish to or cannot live independently and yet do not need the services of a nursing home***. Standards of care may be enforced and prescribed differently for those CBRFs with dementia-specific care, even though HFS 83 contains few dementia-specific guidelines or regulations. Program differences to meet the needs of the residents are important. Residents with higher levels of dementia who are judged to be incapacitated are required to have a signed, activated power	available, services received and the right to accept risk for his/her decisions are rights unique to RCAC tenants. This philosophy and purpose supports a "shared responsibility role", with the control of the care and services received being much more directed and controlled by a RCAC tenant than residents of either other setting. ***This is substantially and fundamentally different than the nursing home and CBRF setting.*** With this type of control given to the tenant, the need for a certain higher level of cognitive functioning is important and crucial in their decision-making process because the tenant has the ability to accept a service or not accept a service (even if not having a service puts the tenant at risk for a potential bad outcome.) This gives the tenant the right to control his/her environment and the scope of the personal, supportive and nursing services they wish. (It should be noted, however, that this ability to direct and control services may diminish for a RCAC tenant who becomes either incompetent or incapacitated).

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Program Philosophy (continued)		of attorney for health care (POAHC) or, if determined incompetent, a legal guardian with an order for protective placement. These residents are still encouraged to exercise their own rights (e.g. choosing to attend or not attend activities, selecting items from a selective menu, deciding what to wear, and refusing medications). However, egress may be restricted for the safety of dementia residents in dementia-specific CBRFs. In non-dementia CBRF settings, the residents generally are more mentally capable of self-determination and better able to exercise choice and control. The residents are able to self-medicate, if appropriate, egress out of the building without restriction, shape policies through active resident councils, and file grievances on their own behalf without having to rely on others to make that determination. The non-dementia CBRF can provide an environment where residents can control and direct their own care to a higher degree than those CBRFs that are dementia specific.	
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Activities	HFS132.69: (1) Program (a) Every facility shall provide an activities program which meets the requirements of this section. The program may consist of any combination of activities provided by the facility and those	HFS 83.33 (2)(c): Leisure time activities. The CBRF shall provide and actively promote resident participation in a program of daily activities designed to provide needed stimulation consistent with the interests of the resident. Watching	**Provider Perspective**: Activities are not defined or required by code. The service agreement may include the activities and social connections that the tenant will be assisted in maintaining.

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Activities (continued)	provided by other community resources. (b) The activities program shall be planned for group and individual activities, and shall be designed to meet the needs and interests of each resident and to be consistent with each resident's plan of care. (2) Staff (a) *Definition*. "Qualified activities coordinator" means: 1. In a skilled nursing facility, a person who: a. Has a bachelor's degree in recreation therapy and is eligible for registration as a therapeutic recreation specialist with the national therapeutic recreation society; b. Has 2 years of experience in a social or recreational program within the last 5 years, one year of which was full-time in a patient activities program in a health care setting; or c. Is an occupational therapist or occupational therapy assistant who meets the requirements for certification by the American occupational therapy association; and 2. In an intermediate care facility, a staff member who is qualified by experience or training in directing group activity. (b) *Supervision*. The activity program shall be supervised by: 1. A qualified activities coordinator; or 2. An employee who received at	television does not, by itself, meet this requirement. Participation in an adult day care program outside the CBRF may meet this requirement. HFS 83.33 (2)(d): Community Activities. Each CBRF shall provide information and assistance to facilitate each resident's participation in personal and community activities outside the CBRF. Monthly schedules and notices of community and CBRF activities, including costs to the resident, shall be developed, updated and made visually accessible to all residents. For residents who are unable or choose not to leave the CBRF, the CBRF shall make a good faith effort to involve persons not living in the CBRF in activities provided in the CBRF. HFS 83.33 (4)(h): Activity programming for persons with irreversible dementia. A CBRF providing dementia care must provide structured services which are part of the daily routine of any resident with irreversible dementia, which meet resident capabilities and differences, which focus on having the person active and involved without concern for how well the task is accomplished and which redirect resident energies away from troublesome behaviors. Such structured activities might include household tasks they are used to, memories and information from the past, repetitive and simple tasks, non-verbal creative activities, physical activity, sensory abilities, and music therapy.	Tenants are encouraged to pursue the independent activities they have enjoyed all of their lives. Staff members assist with logistics, but group activities are not part of the normal schedule.

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Activities (continued)	least monthly consultation from a qualified activities coordinator. *(c) Program staffing hours*. Except as provided in par. (d), activities staff shall be employed to provide at least .46 total hours of activities staff time per resident each week: Note: The required hours are the total time that activities staff must be on duty serving residents each week, not the time directed towards each resident. *(d) Community activities*. The length of time for which residents are involved in community activities may be included in computing the staff time provided under this subsection. In the nursing facility, there is an MDS-driven goal that the resident is engaged 1/3 of the time in either individual or group activities. **Provider Perspective**: The nursing home activity expectations are very structured, including documentation of attendance, level of participation and regular reviews of resident engagement. If the goal is not met, the MDS triggers "under stimulation," and a specialized care plan is required. .	**Provider Perspective**: CBRF residents are encouraged to facilitate smaller group activities, suchas card games and discussion groups. While activities are offered in a CBRF setting, they are not of a structured nature, and documentation of participation is not required. Residents are encouraged to get involved with internal as well as community programs.	

Subject	Nursing Homes	CBRFs	RCACs
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Meals/Nutrition/ Diets	HFS 132.63 (5): At least 3 meals shall be offered daily to each resident, not more than 6 hours apart; no more than 15 hours between substantial evening meal and breakfast. **Provider Perspective:** Documentation required of food and fluid intake, offering snacks, residents' choice not to finish meals coupled with regulators expectations that resident conditions not decline have limited residents' choices and preferences. Documentation needed for all who deviate from the dictated parameters. Required to provide and monitor therapeutic diets.	HFS 83.35(1)(b): Provide 3 meals unless the CBRF's Program Statement or the resident's individualized service plan says otherwise. HFS 83.35(1)(c): If 14 hours or more will elapse in the evening between supper and breakfast, a nutritious snack must be offered. **Provider Perspective:** Meal monitoring is required only if required under the ISP or program statement. Time between meals not dictated. Meals should be routinely served family or restaurant style. There should be reasonable adjustments to food likes, habits, customs, conditions and appetites of the individual resident.	HFS 89.23 (2)(a)2.a.: The facility must have the capacity, either directly or under contract, to provide meals. HFS 89.23 (3)(f): Meals and snacks served to tenants should be prepared, stored and served in a safe and sanitary manner. 89.34(3): Right to self-direction in daily routines. **Provider Perspective:** Number of meals not dictated. Time between meals not dictated. Tenant able to freely eat when, where and what they choose. The tenant has the right to eat quantity desired without documentation of such.
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Documentation	HFS 132.31(6): Complaints. (a) Filing complaints. Any person may file a complaint with a licensee or the department regarding the operation of a facility. Complaints may be made orally or in writing. HFS 132.45 (5): Medical Records –	HFS 83.21(5): Grievance Procedure. (a) Requirement. All CBRFs shall have a written grievance procedure and shall provide a copy to each resident and the resident's guardian or agent. HFS 83.18: Resident record. (1) General	HFS 89.35: Grievances. (1) A RCAC shall have a written grievance procedure and shall provide a copy to each tenant and tenant's representative. (3) The RCAC shall provide a written summary of the grievance, findings, conclusions and any action taken as a result of the grievance to the tenant, the tenant's designated representative, if any, and the county

Subject	Nursing Homes	CBRFs	RCACs
Documentation (continued)	Content. Except for persons admitted for short-term care, for whom HFS 132.70 (7) applies, each resident's medical record shall contain: HFS 132.45 (5)(c): Nursing service documentation. 1. A history and assessment of the resident's nursing needs as required by HFS 132.52 (5); 2. Initial care plan as required by HFS 132.52(4), and the care plan required by HFS 132.60 (8); 3. Nursing notes are required as follows: a. For residents requiring skilled care, a narrative nursing note shall be required as often as needed to document the resident's condition, but at least weekly; and b. For residents not requiring skilled care, a narrative nursing note shall be required as often as needed to document the resident's condition, but at least every other week; 4. In addition to subds. 1., 2., and 3., nursing documentation describing: a. The general physical and mental condition of the resident, including any unusual symptoms or actions; b. All incidents or accidents including time, place, details of incident or accident, action taken and follow-up care. Documentation for the following also is required: The administration of all medications, the need for pain medications and the resident's response, reason to take medication, omission of	Requirements. (a) A CBRF shall maintain a record for each resident. (d) A resident's record shall include all of the following…2. Results of initial and subsequent health assessments or medical examinations, the admissions agreement, the evaluation for evacuation limitations, significant incident and illness reports, the assessment report, the resident's individualized service plan, the evaluations and reviews under s. HFS 83.32(2)(c) and (d), discharge papers, department-approved use of a physical restraint and a summary of any grievances filed by the resident with the facility. 3. Copies of the plan of care under s. HFS 83.34 (3) for a terminally ill resident and all physicians' orders. 4. A description of any behavior patterns of the resident which are or may be harmful to the resident or other persons HFS 83.19: Notification of changes and reporting of incidents: (1) Change Affecting a Resident. (a) Parties to be notified. A CBRF shall provide written notice to a resident, the resident's guardian and the resident's designated representative or agent of any change or occurrence that affects the resident. Thirty day written notices must be given for: (b) A transfer or discharge; (c) Any change in services available or charges for services. Immediate notice must be given when there is an injury to the resident or a significant adverse change in the resident's physical or mental condition; (d) Under (c), immediate notice must be given when physical, sexual or mental abuse of a resident is alleged, while notice within 72	department or aging unit which administers the MA waiver if the tenant is a waiver client. HFS 89.26: Comprehensive Assessment. (1) Requirement. A comprehensive assessment shall be performed prior to admission for each person seeking admission as a basis for developing the service agreement and risk agreement. HFS 89.27: Service Agreement. (1) Requirement. A RCAC shall enter into a mutually agreed-upon written service agreement with each of its tenants consistent with the comprehensive assessment. The service agreement shall identify all of the following: the type, amount and frequency of services provided; fees to be charged, including a 30-day written notice for any fee increase; and policies and procedures for additional services, termination or transfer, tenants' rights, and dispute resolution. **Provider Perspective:** In the RCAC setting, which is more of a social model, the documentation requirements are reasonable when interpreted and applied in a responsible manner. Changes in tenants' conditions, as well as other important exceptions to the tenants' normal daily routine, should be documented.

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Documentation (continued)	medications, errors in medication administration, and drug reactions; food and fluid intake, when the monitoring of intake is necessary; any unusual occurrence of appetite or reluctance to accept diets; summary of restorative nursing measures provided; summary of any use of physical or chemical restraints; other non-routine nursing care given; the condition of a resident upon discharge; and the time of death, physician called and the person to whom the body was released. HFS 132.45(5)(d): Social service records. 1. A social history of the resident as required by s. HFS 132.45 (6); and 2. Notes regarding pertinent social data and action taken. HFS 132.45 (5)(e): Activities records. Documentation of activities programming, a history and assessment as required by s. HFS 132.52 (6), a summary of attendance and quarterly progress notes, as well as the following: f) Rehabilitative services. (g) Dietary assessment. (h) Dental services. (i) Diagnostic services. (j) Plan of care. (k)Authorization or consent. (L) Discharge or transfer information. HFS 132.52 (2): Physician's Orders. No person may be admitted as a resident except upon: (a) Order of a physician; (b) Receipt of information from a physician... HFS 132.52 (3): Medical Examination and Evaluation	hours must be given if misappropriation of property is alleged. HFS 83.19(2) requires the reporting of certain deaths of CBRF residents; HFS 83.19(3) requires the reporting of certain incidents at CBRFs. HFS 83.32: Assessment and individualized service plan. (1)(b) A written report of the results of the assessment shall be prepared and retained in the resident's record. HFS 83.32 (2): Individualized Service Plan. (a) Scope. Based on the assessment under sub. (1), an individualized service plan shall be developed for each resident which shall cover the following areas: physical health; assessment of medications and resident's ability to self-medicate; nursing procedures needed and the number of hours of nursing care provided per week; mental and emotional health; behavior patterns; capacity for self-care; capacity for self-direction; and social participation. HFS 83.32 (2)(c): Annual evaluation. 1. Within 30 days prior to the annual evaluation under subd.2., the resident and his or her guardian or agent shall be offered the opportunity to complete a written or oral evaluation of the resident's level of satisfaction with the facility's services….The evaluation shall be either a department form or a form developed by the facility which is approved by the department. HFS 83.32 (2)(d): Review of progress.	

Subject	Nursing Homes	CBRFs	RCACs
Documentation (continued)	HFS 132.52 (4): Initial Plan of Care HFS 132.52(5): Resident History and Assessment HFS 132.52 (6): Specialty Assessments HFS 132.52 (7): Family Care Information and Referral HFS 132.60(1-2): Requires individual plan of care, and specifies and describes requirements for hygiene, decubiti prevention, basic nursing care, rehab measures, TB retesting, nourishment and adaptive devices. HFS 132.60 (8): Resident Care Planning. (a) Development and content of care plans. (b) Evaluations and updates. (d) Assessment instrument. HFS 132.61(2)(b): Physicians' visits. 1 Each resident who requires skilled nursing care shall be seen by a physician at least every 30 days, unless the physician specifies and justifies in writing an alternate schedule of visits….6. The physician shall write, date and sign a note on the resident's progress at the time of each visit. HFS 132.64 (2)(b): Report to physician. Within 2 weeks of the initiation of rehabilitative treatment, a report of the resident's progress shall be made to the physician. (c) Review of plan. Rehabilitative services shall be re-evaluated at least quarterly by the physician and therapists, and the plan of care updated as necessary.	Each resident's progress or regression on each element of care, treatment and service shall be reviewed and documented in the resident's individualized service plan at 6 month intervals following each evaluation under par. (c) or more often when indicated by a change in the resident's condition. HFS 83.16: Admissions agreement. (1) Specifications. A CBRF shall have a written admissions agreement with each resident. **Provider Perspective:** The CBRF regulations, under HFS 83, have become more slanted towards nursing home regulations and have become much more prescriptive. Facilities often are asked to produce documentation heretofore required only of skilled nursing facilities.	

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Documentation (continued)	HFS 132.65 (3)(b):…The pharmacist shall submit a written report of findings at least quarterly to the facility's pharmaceutical services committee. HFS 132.66 (1)(e): Notice of findings. The attending physician shall be notified promptly of the findings of all laboratory, x-ray or other diagnostic tests provided under this subsection. HFS 132.45(2): Personnel Records. A separate record of each employee shall be maintained, be kept current, and contain sufficient information to support assignment to the employee's current position and duties. **Provider Perspective:** The medical model focus of nursing home regulations has resulted in extreme amounts of documentation – even more than one would encounter in a hospital setting. The nursing home regulations require that nearly all activities of a resident's daily life be addressed with an attitude of "if it isn't documented, it didn't happen." This approach requires more staff time and significantly contributes to the cost of nursing home care. It also creates a more regimented setting, often resulting in conflicts between the desires of the residents/staff and the process-driven regulatory system.		

Subject	Nursing Homes	CBRFs	RCACs
*************** **Miscellaneous Documentation** (not aligned)	************************** HFS 132.14 (8): Reporting. Every 12 months, on a schedule determined by the department, a nursing home licensee shall submit a report to the department… HFS 132.31(1)(d): Admission information. Every resident shall have the right to be fully informed in writing, prior to or at the time of admission, of all services and the charges for these services, and be informed in writing during the resident's stay, of any changes in services… HFS 132.45 (4)(c): Unit Record. A unit record shall be maintained for each resident and day care client. HFS 132.45 (4)(d): Indexes. 1. A master resident index shall be maintained. 2. A disease index shall be maintained which indexes medical records at least by final diagnosis. HFS 132.45(6): Other Records. The facility shall retain: (a) Dietary records. (b) Staffing records. (c) Safety tests. (d) Resident census. (e) Professional consultations. (f) In-service and orientation programs. (g) Transfer agreements. (h) Funds and property statement. (i) Court orders and consent forms. HFS 132.51(2)(b)3: Reportable	**************************** HFS 83.21(2)(a): Explanation of Resident Rights and House Rules. …The resident or the resident's guardian or agent shall sign a statement to acknowledge having received an explanation of resident rights. HFS 83.33 (3): Medications. (a) Practitioner's order. 1. There shall be a practitioner's written order for any prescription medication taken by or administered to a CBRF resident and that medication shall be labeled by a pharmacist. HFS 83.33 (3)(a) 2: The administrator or designee shall arrange for a pharmacist or a physician to review each resident's medication regimen…A written report of findings shall be prepared… HFS 83.33(3)(c)2: For schedule II drugs a proof-of-use record shall be maintained which lists… HFS 83.33 (3)(d) 2: When supervision of self-administration of medication occurs, staff providing the supervision shall record in the resident's medical record the type of medication taken, the dose taken… HFS 83.33 (3)(d) 3: When a resident self-administers a prescription medication under the supervision of a staff member and a prescription medication error or adverse drug reaction occurs, if known, or the resident refuses to take the medication,	****************************** HFS 89.54: Reporting of changes. A certified RCAC operator shall report to the department any change which may affect its compliance with this chapter. HFS 89.29(3)(c) 2: Procedures for Termination – No 30-day notice is required in an emergency. In this subdivision, "emergency" means an immediate and documented threat to the health or safety of the tenant or of others in the facility. HFS 89.32: Facility policies and procedures. A RCAC shall establish written policies regarding tenant rights.

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Miscellaneous Documentation (not aligned) **(continued)**	diseases. Suspected diseases reportable by law shall be reported.	that fact shall be documented in the resident's medical record. HFS 83.33 (3)(i) 1: The facility shall maintain a record of receipt and disposition appropriate for the type of medication for all prescribed and over-the-counter medications managed or administered by the facility. HFS 83.33 (4)(j) 2: The nursing care procedures and the amount of time spent each week by a registered nurse or licensed practical nurse in performing the nursing care procedures with a resident shall be recorded in the resident's record when given. HFS 83.17: Resident funds. (1) Authorization. Except for correctional clients, a CBRF may not obtain, hold or spend a resident's funds without written authorization from the resident.	
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Resident Competency	HFS 132.31 (2): Incompetence – If the resident is found incompetent by a court under Chapter 880, Stats., and not restored to legal capacity, the rights and responsibilities established under this section which the resident is not competent to exercise shall devolve upon the resident's guardian. HFS 132.33 (3): Placement - Discusses the requirements which must be met to place a resident of a SNF on a locked unit within the facility.	HFS 83.05 (2): Defines classes of CBRF. Class "A" requires that residents be "mentally and physically capable" of responding to an electronic fire alarm. Additionally, a Class "A" CBRF may admit those who are ambulatory, semi-ambulatory, or non-ambulatory. In all instances, a Class "A" CBRF has an expectation that residents can function independently in the event of an emergency.	HFS 89.13(15): Defines "incapable of making care decisions" (as) "unable to understand one's own needs for supportive, personal or nursing services; to choose what, if any, services one wants to receive to meet those needs; and to understand the outcome likely to result from that choice." The terms refer to the ability to make a decision and not to the content or result of the decision. HFS 89.29: Admission and Retention of

Subject	Nursing Homes	CBRFs	RCACs
Resident Competency (continued)	**Provider Perspective:** Within current legal guidelines, a SNF may admit either competent or incompetent individuals and continue to address their care and services needs over time The SNF generally is the most regulated long term care setting and has the highest level of protections for individual resident rights. SNFs typically have long histories of working with substitute decision-makers (when present), adhering to detailed resident rights and including all appropriate representatives in care/service decisions.	Class "C" facilities are those that serve "one or more (residents)" who are not physically or mentally capable of responding to an electronic fire alarm and exiting the building without help or verbal or physical prompting. Class "C" CBRFs also can admit individuals who are ambulatory, semi-ambulatory, or non-ambulatory. HFS 83.06(1)(a)3: Prohibits the admission or retention of a person in a CBRF who has physical, mental, psychiatric or social needs that are not compatible with the CBRF's client group or with the care, treatment, or services provided by the CBRF. HFS 83.06(5): Contains prohibitions on the admittance of a protectively placed individual to a CBRF licensed for 16 or more residents unless there is a court-ordered protective placement under s.55.06, Stats., prior to admission. HFS 83.07(2): Discusses the requirements for an individualized program statement. This statement shall detail the client groups the facility shall serve and the types of services available to meet the needs of those residents. Persons needing services in excess of or in conflict with the services provided by a CBRF shall not be admitted or retained. HFS 83.21(4) (t): Addresses incompetence /resident/guardian decision-making. It states "A resident who has been adjudicated incompetent has a right to	Tenants: • Admission: No RCAC may admit any of the following persons, unless the person being admitted shares an apartment with a competent spouse or other person who has legal responsibility for the individual: A person who has a court determination of incompetence and is subject to guardianship…A person who has an activated Power of Attorney for Health Care, or a person who has been found by a physician or psychologist to be incapable of recognizing danger, summoning assistance, expressing need or making care decisions. HFS 89.29(2)(b): Discusses the requirements for a provider to retain a person who has become incompetent, incapacitated or incapable of recognizing danger, summoning assistance, expressing need or making care decisions. The RCAC must ensure there is adequate oversight, protection and services for the incompetent/incapacitated tenant; the tenant must have a guardian, an activated power of attorney for health care or a durable power of attorney, whichever is applicable; and both the service agreement and risk agreement must be signed by the guardian, health care agent or the agent with power of attorney, whichever is applicable. **Provider Perspective:** Under HFS 89, tenants need to be competent to understand and express their

Subject	Nursing Homes	CBRFs	RCACs
Resident Competency (continued) **Resident**		have his or her guardian fully informed and involved in all aspects of his or her relationship to the CBRF. The guardian may exercise any and all rights to consent or refuse which the resident is granted under this section. A resident who has been adjudicated incompetent shall be allowed decision-making participation to the extent possible as agreed to by the guardian and facility." **Provider Perspective:** A person's mental capacity is a key indicator in whether they may be admitted to certain licensure categories of CBRFs. Persons who are intermittently mentally incapable of independent action for self-preservation under emergency conditions may be admitted or retained only in a Class "C" CBRF. Individual CBRFs shall define what services will be provided within the facility, and define the types of client groups that are to be served by the facility. CBRFs can admit and retain incompetent residents if they are properly licensed and have developed a program statement which assures that incompetent residents will receive all needed services and that staff are trained to adequately meet their needs. As clients age, their needs may change, and depending on the licensure type of the facility, a resident may need to move to secure needed and appropriate services. Since some facilities choose not to provide dementia services, it is important for the consumer to understand	needs and preferences, to enter into a service agreement and to understand and accept risk. The development of the RCAC setting was clearly predicated on the availability of an informed decision-maker who can participate in the development of a service plan. The admission of tenants to RCACs since its inception has been predicated on the ability of individual tenants to function competently, and be able and willing to participate in the identification of needed care services. Some facilities may choose to retain tenants who become incompetent or incapacitated over time but each facility must be able to enumerate its discharge policies to potential clients, and define when a tenant may exceed the limits of what the facility may be able/wishes to provide. (See section on Risk Agreements).

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Competency (continued)		which services a given facility is capable of performing and which they are not.	
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Negotiated Risk	Not addressed in the code.	Not addressed in the code.	HFS 89.13(27). "Risk Agreement" means a binding stipulation identifying conditions or situations which could put the tenant at risk of harm or injury and the tenant's preference for how those conditions or situations are to be handled. HFS 89.28: Risk Agreement. (1) Requirement. As a protection for both the individual tenant and the RCAC, a RCAC shall enter into a signed, jointly negotiated risk agreement with each tenant by the date of occupancy. (2) Content. A risk agreement shall identify and state all of the following: (a) Risk to tenants, which identifies any situation or condition which is or should be known to the RCAC which involves a course of action taken or desired to be taken by the tenant contrary to the practice or advice of the facility and which could put the tenant at risk of harm or injury and how the tenant and the RCAC wish to proceed in this area(s) of disagreement. (b) Unmet needs. (3) No Waiver of rules or rights. (4) Obligation to negotiate in good faith. (5) Signed and dated. (6) Updated.

Subject	Nursing Homes	CBRFs	RCACs
Negotiated Risk (continued)			**Provider Perspective:** Negotiated risk agreements support tenant autonomy in decision-making by identifying those areas where the tenant and the facility disagree about a particular course of action or decision. The process of negotiating a risk agreement allows the tenant to make decisions that are consistent with his or her preferences and it allows the facility to express concerns regarding those decisions. The tenant is able to exercise choice and control by assuming responsibility for decisions.
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Minimum Required and Defined Services	No limits on hours of care or services; however, throughout HFS 132, a medical model of care is assumed and emphasis is on medical needs. HFS 132.13: Defines dietitian, direct supervision, intermediate nursing care, limited nursing care, nurse, nurse practitioner, nursing assistant, personal care, pharmacist, physical therapist, physician, physician extender, physician's assistant, practitioner, recuperative care, respite care, skilled nursing services and supervision. **Provider Perspective:** In addition to the HFS 132 regulations, extensive federal statutes, regulations	HFS 83.06(1)(a): A CBRF may not admit or retain any person who is in need of more than 3 hours of nursing care per week except for a temporary condition lasting no more than 90 days (NOTE: No limits on non-nursing service). However, state statute, which in this case supersedes HFS 83, redefines a CBRF under s.50.01(1g) to mean "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." "Nursing care" is defined under s.50.01(2m), Stats., as "nursing procedures, other than personal care, that are permitted to be performed by	HFS 89.24(1): A RCAC shall provide no more than 28 hours per week of personal, supportive, and nursing care to each tenant; No limit on type or amount of other services, activities, or amenities. HFS 89.24(2): Individual tenant services defined by "needs and preferences," as documented in service agreement. HFS 89.24(2)(b): Allows tenants to contract for non-facility services, subject to outside providers meeting facility standards and policies. HFS 89.24(2) (b)3: Facility may not limit amount of hospice service, amount of unpaid services by tenant family or friends, or amount of recuperative care above 28 hours/week for up to 90 days.

Subject	Nursing Homes	CBRFs	RCACs
Minimum Required and Defined Services (continued)	and interpretive guidelines, many of which are the product of the 1987 federal OBRA nursing home reform initiatives, require nursing homes to provide the necessary care and services to attain or maintain the highest practicable physical, mental, and psychosocial well-being, in accordance with the comprehensive assessment and plan of care. "Highest practicable" is defined as the highest level of functioning and well-being possible, limited only by the individual's presenting functional status and potential for improvement or reduced rate of functional decline. Highest practicable is determined through the comprehensive resident assessment by competently and thoroughly addressing the physical, mental or psychosocial needs of the individual. (CFR 483.25 and federal F-tag 309). In addition, Chapter 50 defines, among other things, intensive skilled nursing care, intermediate level nursing care, nursing care, and skilled nursing services.	a registered nurse under s.441.01(3) or by a licensed practical nurse under s.441.11(3), directly on or to a resident." Under s.50.035(10), the 3 hour nursing care limit can be exceeded: 1) For not more than 30 days to a resident who does not have a terminal illness but who has a temporary condition that requires the additional care; 2) If the CBRF has obtained or is in the process of obtaining a waiver from the DHFS, for more than 30 days to a resident who does not have a terminal illness but who has a stable or long-term condition that requires the additional care; and 3) For a resident who has a terminal illness and requires the additional care. HFS 83.06((1)(a) 5: May not admit persons needing 24 hour nursing supervision. HFS 83.06((1)(a) 6: May not admit persons with chronic personal care needs that can not be met by facility or community agency. HFS 83.01(2): Services must be provided to encourage residents "to move toward functional independence in daily living to continue functioning independently to extent possible." HFS 83.03(1)(a) 1: Defines "care, treatment & services" as "supervision and supportive services provided…to persons who have needs which cause them to be unable to live independently in community."	HFS 89.24(3)(b): Congregate services (e.g. meals, laundry, housekeeping) not counted as part of 28 hours/week /tenant calculation. HFS 89.13 (2): Services provided can be either directly or under contract, and must be sufficient to meet needs in service agreement in addition to unscheduled needs and 24-hour emergency services. HFS 89.23 (1): RCAC may provide or contract for services "sufficient and qualified" to meet care needs in service agreement + unscheduled needs + 24-hour emergency care. HFS 89.23 (2)(a) 2: Defines minimums for supportive, personal care, & nursing services; option to provide more than minimum "at the option of the facility." **Provider Perspective:** Under Chapter 50, Wis. Stats., and HFS 89, RCACs are prohibited from providing more than 28 hours per resident per week of personal, supportive and nursing services. At the same time, RCACs are not permitted to limit the total hours of care to less than 28 hours per resident per week but may limit the types of care they provide to the minimum required supportive, personal and nursing services. For instance, a RCAC is only required to provide health monitoring, medication management and medication

Subject	Nursing Homes	CBRFs	RCACs
Minimum Required and Defined Services (continued)		HFS 83.04(2): Defines "activities of daily living," but defines them differently than in HFS 89. HFS 83.04(45): Defines "palliative care." HFS 83.04(46): Defines "personal care" as help with ADLs. HFS 83.04(56): Defines "respite care." HFS 83.04(64): Defines "supervision." HFS 83.04(65): Defines "supervision of self-administered medications." HFS 83.04(66): Defines "supportive services" as those given "during final stages of an individual's terminal illness…." HFS 83.31(1): CBRFs are required to provide needed "program services" identified in the resident's individualized service plan (ISP), either directly or by written agreement with other agencies or persons. HFS 83.32(1): Specifies in detail requirements for assessments. HFS 83.32(2): Specifies in detail requirements for ISP. HFS 83.32(4): Specifies exceptions and conditions for persons in respite care. HFS 83.33(2): Specifies requirements for general services to be provided, including supervision, information & referral, leisure activities, community activities, transportation, health monitoring, medical services, and advance directives. HFS 83.33(3): Specifies requirements for medications and resident self-administration. HFS 83.33(4): Specifies requirements for	administration to meet its nursing services requirement. RCACs may discharge tenants whose needs cannot be met with the minimum level of required service or whose condition requires the immediate availability of a nurse 24 hours a day. However, there is no limit on the amount of services a RCAC tenant may arrange for; the 28-hour limit only applies to the provision of nursing, supportive and personal services provided or contracted by the RCAC. The computation of hours of service is only needed to determine whether a tenant should be discharged; facilities are not required to continually document staff time spent in providing services to each tenant. Finally, in computing the 28-hour service limit, only individualized services count toward the 28 hours; congregate services and activities which would typically be available in a hotel or unlicensed housing for the elderly do not.

Subject	Nursing Homes	CBRFs	RCACs
Minimum Required and Defined Services (continued)		"specific services" by client group, including personal care, independent living skills, communication, socialization, assistance with self-direction, monitoring symptom status, medications administration instruction, activity programming for dementia residents, transitional services, and nursing care. HFS 83.35: Specifies in considerable detail requirements for food services, including provision of "at least" 3 meals/day + snack. **Provider Perspective:** The key distinction between "nursing care" in a CBRF and "nursing services" in a RCAC is the amount of hands-on nursing that is permitted. The 3-hour per resident per week limit in CBRF nursing care applies to nursing procedures performed by a RN or LPN "directly on or to a resident." It does not apply to consultation documentation or supervisory functions, only direct, hands-on care. It also excludes care provided by non-professionals (CNAs). "Nursing services" in a RCAC are defined as nursing procedures, excluding personal services, which must be performed by a RN or as a delegated act under the supervision of a RN. This, obviously, is a much broader interpretation of nursing than the CBRF code permits. S.50.01(3) defines a nursing home as "a place where 5 or more persons who are not related to the operator or administrator reside, receive care or treatment and, because of their mental or physical	

Subject	Nursing Homes	CBRFs	RCACs
Minimum Required and Defined Services (continued)		condition, require access to 24-hour nursing services, including limited nursing care, intermediate level nursing care and skilled nursing services." "Nursing services" itself is not defined; the three levels listed are on the basis of those definitions. It is permissible, though not necessarily advisable, for a CBRF to provide significantly more hands-on nursing care under its 3-hour limit than a RCAC could under its 28-hour limit or than virtually all nursing homes currently do provide.	
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Staff Requirements	HFS 132.41: Requires licensed administrator and specifies full-time administrator, except for small facilities or when overseeing facilities on same campus. HFS 132.42 (3)(a): New employees. Every employee shall be certified in writing by a physician or physician extender as having been screened for tuberculosis infection and… HFS 132.45(1): General. The administrator or administrator's designee shall provide the department with any information required to document compliance with HFS 132 and Ch.50, Stats., and shall provide reasonable means for examining records and gathering the information. HFS 132.60 (4): Requires provision of	HFS 83.12 (1): A CBRF licensee shall have an administrator responsible for the day-to-day operations. HFS 83.15(1)(a): The ratio of staff-to-resident in a CBRF shall be adequate to meet the needs of the residents as defined in their assessments and individualized service plans and for the type of facility. HFS 83.15(1)(b): An administrator or other qualified staff person designated to be in charge of the CBRF shall be on the premises of the facility daily to ensure that safe and adequate care, treatment, services and supervision are being provided to residents. HFS 83.15 (1)(c) 1: Requires at least 1 qualified staff on site when any residents in building.	HFS 89.23 (2)(b): The number, assignment and responsibilities of staff shall be adequate to provide all services identified in tenants' service agreements, including sufficient time to let staff assist tenants with unscheduled care needs. HFS 89.23(4)(a)2: Nursing services and supervision of delegated nursing services shall be provided consistent with the standards contained in the Wisconsin Nurse Practice Act. This part of the code mandates a RN presence in RCACs. HFS 89.23 (5): Documentation. A RCAC shall document that the requirements for provider qualifications have been met. HFS 89.23 (6): Written Staffing Plan. A RCAC shall maintain an up-to-date, written staffing plan which describes how

Subject	Nursing Homes	CBRFs	RCACs
Staff Requirements (continued)	emergency services. HFS 132.60(7): Provides that oxygen shall be administered only on order of a physician and only by a capable person trained in its administration and use. HFS 132.64: Requires provision of or arrangement for rehabilitative services as needed. HFS 132.65: Specifies in detail provision of pharmaceutical services, including need for committee and medications consultant. HFS 132.66: Requires prompt provision of lab, radiologic and blood services. HFS 132.67: Requires facility to retain advisory dentist, specifies dental exam every 6 months, and arrangements for emergency dental care. HFS 132.68: Requires facility to hire or retain social worker and specifies social services to be provided. HFS 132.69: Requires facility to provide activities program and sets requirements	HFS 83.15 (1) (c) 2: From 9:00 pm to 7:00 am, requires staff-to-resident ratio of one-to-twenty for every twenty residents that require a Class C licensed facility. HFS 83.15 (2): Written staff schedule. (a) The licensee shall maintain and have available for department review a current written schedule for staffing the facility. HFS 83.13: Personnel. (1) Job descriptions. Written job descriptions shall be available for all employees. HFS 83.13 (7): Employee Personnel Record. (a) A separate personnel record shall be maintained and kept up-to-date for each employee. HFS 83.13 (7)(a) 8: A completed criminal record check form from the department of justice must be maintained.	the facility is staffed to provide services that are sufficient to meet tenant needs. 89. 23(4)(b): Service Manager. RCACs shall have a designated Service Manager responsible for day-to-day operations. When the service manager is not present, a person shall be designated to be in charge of the facility who is competent to supervise the RCAC staff, who shall be identified to and easily reachable by all tenants and staff, and who shall be "available" to the RCAC. "Available" means either present in the facility or present, awake and on duty in an attached or adjacent residential, health care or other similar facility and able to be physically present in the facility on short notice.
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Staff Training	************************** HFS 132.44: Requires orientation for all employees, other training for direct care staff, continuing education for direct care staff, dietary in-services for dietary staff, and medications administration training for authorized staff.	HFS 83.13 (7)(a) 9: Documentation of successful completion of the initial training and in-service training requirements and continuing education requirements under HFS 83.14 is required. HFS 83.14 (4): Training Plan by CBRF. A CBRF may provide all or some of the required training for its staff. If it provides the training, the CBRF shall develop a plan	HFS 89.23(3): Provides general staff training requirements such as "timely," "appropriate," but specifies need to respect privacy, tenant rights and independence and support **"tenant autonomy in decision-making, including the right to accept risk."** HFS 89.23(4)(a): Requires "trained" and "capable" staff; nursing services and supervision of delegated nursing services

Subject	Nursing Homes	CBRFs	RCACs
Staff Training (continued)	agency, a course offered by a vocational school or the American Red Cross, or a program approved by the DHFS. The 75-hour minimum training requirement and the annual 12-hour in-service training mandate are both federal requirements not referenced under HFS 132 but rather are contained in HFS 129	for training which shall be approved by the department. HFS 83.14 (8): Documentation. All training, orientation and continuing education shall be documented by the licensee, administrator or designee in the employee's personnel file and signed by the employee at the time it is received. HFS 83.14 (1): Administrative and all resident care staff are required to take 45 hours of initial training, including resident rights, challenging behaviors and client group specific training, universal precautions, ISP development, fire safety and first aid, and procedures to alleviate choking. HFS 83.14 (2): Staff responsible for determining dietary needs, menu planning, food preparation and sanitation shall complete three hours of training. HFS 83.14 (3): The Administrator, as well as any non-medical staff who will manage or administer medications, must complete 8 hours of training.	consistent with Nurse Practice Act. HFS 89.23(4)(d): Requires all staff to have training in fire safety, first aid, universal precautions and the facility's emergency plan, and in the facility's policies and procedures relating to tenants' rights. 89.24(4)(d) 2.b: Singles out need for staff training or experience in "purpose and philosophy of assisted living, including respect for tenant privacy, autonomy, and independence."
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