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Governor Scott Walker  
Secretary Eloise Anderson

Division of Safety and Permanence

March 13, 2014

Child Welfare Licensing Memo Series 2014-03L

To: Residential Care Center for Children and Youth Providers  
Group Home Providers

From: Ron Hermes   
Bureau Director

RE: Community Advisory Committee

This memo supersedes Memo Series 2000-01 dated January 15, 2000, which is no longer in effect. This memo updates the names of our licensed facilities and the Department. No content has changed from the previous memos. State Statutes currently state the following regarding community advisory committees:

**s. 48.68(4)** Prior to initial licensure of a residential care center for children and youth operated by a child welfare agency or of a group home, the applicant for licensure shall make a good faith effort to establish a community advisory committee consisting of representatives from the child welfare agency or proposed group home, the neighborhood in which the proposed residential care center for children and youth or group home will be located and a local unit of government. The community advisory committee shall provide a forum for communication for those persons interested in the proposed residential care center for children and youth or group home. Any committee established under this subsection shall continue in existence after licensure to make recommendations to the licensee regarding the impact of the residential care center for children and youth or group home on the neighborhood. The department shall determine compliance with this subsection both prior to and after initial licensure.

Wisconsin statute 48.68 (4), mandates that applicants for a license to operate a Child Welfare Agency residential facility known as a residential care center for children and youth (RCC) or a group home (GH) make a good faith effort to establish a community advisory committee prior to the Department of Children and Families (DCF) issuing an initial license. The purpose of the committee is to establish a forum for communication between the facility operator, neighbors of the proposed facility and representatives of the local unit of government. This memo series defines "good faith effort," "neighborhood," the purpose of the advisory committee, committee composition and the Department's criteria for enforcing this statutory requirement. Attached to this memo is form DCF-F-CFS0367, that should be used by license applicants to document the means by which they made a good faith effort to establish a community advisory committee prior to initial licensure.

## APPLICATION

These statutory requirements cover residential facilities center for children and youth (RCC's) operated by child welfare agencies licensed under s. 48.60, and group homes licensed under s. 48.625, Wisconsin Statutes.

## BACKGROUND

The intent of this statute is to provide an opportunity for the neighborhood residents in which a Community Living Arrangement (CLA) is being planned to participate on an advisory committee with representatives of the proposed CLA. The committee is advisory to the license applicant (or licensee if the facility is issued a license). The active functioning of such a committee can be a vital means of

communication between the community and the CLA. However, the Legislature recognized that in some neighborhoods, residents may not wish to participate on such an advisory committee, and the statutory language provides for this option.

## INTERPRETATION

1. **In General.** These statutes require each license applicant to make a good faith effort prior to initial licensure to establish a community advisory committee consisting of representatives of the proposed facility, neighborhood and local unit of government. They also provide for the continued existence of such a committee after licensure.
2. **“Good Faith Effort.”** This term is not defined in this statute. Elsewhere in the Wisconsin Statutes, “good faith” is defined as “honesty in fact in the conduct or transaction concerned.” The dictionary definition equates “good faith” with “sincerity.” Wisconsin case law indicates that “good faith” is properly determined based upon a general course of conduct and a careful analysis of facts on a case-by-case basis. There is no firm formula for determining whether an applicant has made a “good faith” effort to establish a community advisory committee. However, meeting with area neighbors or distributing literature about the proposed program for the first time within a few days prior to initial licensure is not considered to be a good faith effort.
3. **“Neighborhood” and “local unit of government.”** These terms are not defined in this statute.  
  
“Neighborhood unit” is defined elsewhere in the statutes as “a primary residential district having the facilities necessary for well-rounded family living, such as schools, parks, playgrounds, parking areas and local shopping districts.” The Wisconsin Supreme Court has stated that the boundaries of a neighborhood can only be determined on a case-by-case basis.  
  
“Local unit of government” is defined in different ways in different sections of the statutes. The term may reasonably be interpreted to include counties, cities, villages and towns.
4. **Purpose of Community Advisory Committee.** This statute states that community advisory committees “shall provide a forum for communication” and “make recommendations.” It is clear from this language that community advisory committee actions are not to be considered binding on the licensee. Since the language of the statute clearly indicates that the purpose of the community advisory committee is to make recommendations to the licensee regarding the impact of the RCC or group home on the neighborhood, this function must be considered as the minimum “charge” to, or responsibility of the committee. Of greatest significance in the functioning of the community advisory committee, all existing laws protecting the confidentiality of persons receiving treatment for mental illness, developmental disabilities or alcohol or drug abuse (s. 51.30) and placement services under chs. 48 or 938 (ss. 48.78, 48.981 (7) and 938.78, Stats.) must be adhered to by the license applicant (licensee), and other staff of the facility at all times. The committee shall not become a forum for screening referrals for placement of new residents or discussing current residents or be privy to case documentation information on specific residents.
5. **Committee Composition.** This statute does not indicate persons in certain public positions who must serve, or must be invited to serve, on the community advisory committee. Discretion in membership and membership invitation is left to the applicant or licensee. The only requirement as to membership is that the applicant makes a good faith effort to include representatives from the facility, neighborhood and a local unit of government. If a good faith effort is made and representation from all of these groups cannot be secured, the community advisory committee can be formed anyway and will meet the statute’s continuing existence requirement.

## ENFORCEMENT

\*The Department is charged with the responsibility of determining compliance with Chapter 72, Laws of 1981, and will do so through the licensing process. Any initial license issued to a license applicant since

the enactment of Chapter 72, Laws of 1981 requires compliance with s. 48.68 (4), Stats., for establishing a community advisory committee. A RCC or group home applicant must make a good faith effort to organize and establish a community advisory committee. If a RCC applicant intends to operate more than one RCC program at more than one location in a different community or neighborhood under the same license, then the intent of the law would be that documented attempts to form a community advisory committee would occur for each location.

1. **Initial License Application.** Prior to initial licensure, the Department's sole determination is whether the applicant has made a good faith effort to establish a community advisory committee consisting of representatives of the facility, neighborhood and local unit of government. In itself, the fact that the applicant has not succeeded in establishing such a committee does not determine non-compliance. The Department may reasonably require the applicant to show documentation of the good faith effort. Examples of what may constitute this good faith effort include, but are not limited to, the following:

- a. Documentation that persons were invited to participate on the committee.
- b. Literature prepared and distributed to area neighbors, merchants, etc., describing the purpose and formulation of the committee.
- c. An announcement about the formulation of the committee at a general meeting with area neighbors, merchants, etc.
- d. House calls (in person or by phone) to area neighbors, merchants, etc., explaining the purpose and formulation of the committee.
- e. A list of committee members.
- f. Minutes from committee meetings.
- g. Results of committee actions.

2. **Continuing Compliance.**

- a. If a committee is established prior to initial licensure, the statutes provide for the committee to continue in existence after licensure. This necessitates continued efforts by the licensee to foster the continued existence of the committee. However, in many instances committees established under this subsection may reach a point in their functioning that regularly scheduled meetings are no longer necessary. When this situation develops the committee may reduce its frequency of meetings to a level that is agreeable to the committee and continues to fulfill the purpose of the committee. For example, the committee may opt to place itself on an ad hoc status and to be convened only if situations arise that should appropriately be addressed by the committee. This approach to the committee's reduced "ongoing" functioning would constitute compliance with the statutory requirement for the committee to continue in existence after licensure. However, any choice for reduced committee functioning must be agreed to by the committee as a whole and not an action solely by the licensee. If the committee has chosen to continue on a reduced functioning basis, a statement to that effect signed by the committee members and maintained on file by the licensee is recommended for verification purposes.

\*Any significant change to the program requires that a licensee try to invite the community advisory committee to reconvene to discuss any potential issues or concerns for the community. Significant changes would be any change through license amendment to a provision of the license including a target group to be served, such as alcohol and drug abuse, developmentally disabled, emotionally disturbed, correctional

youth, sex offenders and so on. Significant change would also include a license amendment to change the number of residents, age range or gender to be served. The licensee must document and maintain on file these efforts to reconvene the community advisory committee when seeking to make any significant change to its residential program.

\*If a RCC with more than one licensed location under a single license moves a RCC residential program to a different neighborhood or community, efforts must be made to find members from the new neighborhood or community to serve on the community advisory committee. As applicable, it may be necessary to recruit representatives of the local unit of government, if different from the last location. Staff from the new facility location of course would also be represented on the committee.

- b. **If a Committee is NOT Established.** If the licensee was unsuccessful in establishing a community advisory committee prior to initial licensure and, the licensor is satisfied that a good faith effort was made, then the statutory requirement has been met and the licensee need not make future attempts to establish this type of committee. Documentation of the good faith effort must be maintained at the facility.

Form DCF-F-CFS 0367 "Community Advisory Committee Documentation" shall be completed by the license applicant and a copy of all correspondence related to these requirements shall be sent to the DCF Licensing Specialist.

CHILD WELFARE LICENSING SECTION CONTACT:

Child Welfare Program Specialist  
Division of Safety and Permanence  
Bureau of Permanence and Out of Home Care  
(262) 446-7856-8694

Attachment: Community Advisory Committee Documentation, DCF-F-CFS0367  
<https://dcf.wisconsin.gov/files/forms/pdf/0367.pdf>