



H 32

State of Wisconsin \ DEPARTMENT OF HEALTH AND SOCIAL SERVICES

December 17, 1976

DIVISION OF HEALTH
MAIL ADDRESS: P. O. BOX 309
MADISON, WISCONSIN 53701
IN REPLY PLEASE REFER TO:

Mr. Orlan Prestegard
Revisor of Statutes
411 W. Capitol
Madison, Wisconsin 53702

Dear Mr. Prestegard:

As provided in section 227.023, Wis. Stats., there is hereby submitted a certified copy of proposed amendments and the creation of a new section within Chapter H 32, Wisconsin Administrative Code, pertaining to resident rights and the use of cubicle curtains in nursing homes as adopted by the Secretary of the Department of Health and Social Services on November 1, 1976. In accordance with section 227.018(2), Wis. Stats., the 30-day review by the appropriate legislative committee members expired on December 12, 1976, with no objections being raised.

These rules are also being submitted to the Governor as required by section 14.06, Wis. Stats., and to the Secretary of State as required by section 227.023, Wis. Stats.

It is hoped that the rules can be published in the January 1977 edition of the Wisconsin Administrative Register and become effective February 1, 1977.

Sincerely,

Edwin R. Larkin, M.D.

Edwin R. Larkin, M.D.
Acting Administrator

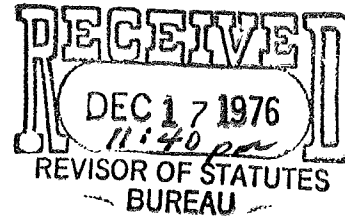
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Enclosures

STATE OF WISCONSIN

DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

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) ss



TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Manuel Carballo, Secretary of the Department of Health and Social Services and custodian of the official records of said department, do hereby certify that the creation of rules and regulations relating to nursing home rules were duly approved and adopted by this department.

I, further certify that to the best of my knowledge, my official representative has compared said copy with the original on file in this department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the department in the city of Madison, this 16th day of December, 1976.

Manuel Carballo

Manuel Carballo, Secretary
Department of Health and Social Services

SEAL

ORDER OF THE DEPARTMENT OF HEALTH & SOCIAL SERVICES ADOPTING RULES

Pursuant to authority vested in the Department of Health & Social Services in Chapter 39, Laws of 1975, and in Section 140.05, Wis. Stats., & in accordance with Chapter 227, Wis. Stats., the following rules are hereby promulgated:

AMENDMENT OF MISCELLANEOUS SUBSECTIONS
AND
CREATION OF A NEW SECTION
OF
WISCONSIN ADMINISTRATIVE CODE
CHAPTER H 32
(NURSING HOME RULES)

PROPOSED EFFECTIVE DATE
FEBRUARY 1, 1977

RECOMMENDED BY
DIVISION OF HEALTH
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
P. O. BOX 309, MADISON, WISCONSIN 53701

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
(HEALTH)

TO AMEND the following rules in H 32 Nursing Home Administrative Code effective February 1, 1977:

H 32.01(2), page 75 (2) RESIDENT. Resident means an individual cared for or treated in any nursing home, regardless of how admitted.

H 32.01(4), page 76 (4) STANDARDS. The department may develop, establish and enforce standards (a) for the care, treatment, health, safety, rights, welfare and comfort of residents in nursing homes, and

H 32.03(2)(d), page 80 (d) The facility shall attach a statement, which summarizes complaints or allegations of violations of rights established under section 146.309, Wis. Stats., and this chapter, to an application for a new license or a renewal of its license. This statement shall contain the date of the complaint or allegation, the name of the persons involved, the disposition of the matter and the date of disposition.

H 32.04(4), page 81 (4) RIGHTS OF INJUNCTION. (a) Licensed nursing homes. Notwithstanding the existence or pursuit of any other remedy, the department may upon the advice of the attorney general who shall represent the department in all proceedings, maintain an action in the name of the state in the circuit court for injunction or other process against any licensee, owner, operator, administrator or representative of any owner of a nursing home to restrain and enjoin the repeated violation of any of the provisions of this chapter where the violation affects the health, safety, rights or welfare of the residents.

H 32.04(4)(c), page 81 (c) Enforcement by counties maintaining inspection programs. The county board of any county conducting inspections under 146.30(3)(b), Wis. Stats., may, upon notifying the department that a nursing home is in violation of this chapter, authorize the district attorney to maintain an action in the name of the state in circuit court for injunction or other process against such nursing home, its owner, operator, administrator or representative, to restrain and enjoin repeated violations where such violations affect the health, safety, rights or welfare of the residents.

H 32.05(4)(g), page 83 (g) The administrator shall be responsible for seeing that all employees are properly instructed in the discharge of their duties and are provided with training to implement resident rights established under section 146.309, Wis. Stats., and this chapter.

H 32.05(4)(i), page 83 (i) The administrator shall have a policy with reference to visitors consistent with the rights of residents under section H 32.055 Wisconsin Administrative Code. There shall be a minimum of eight hours of visiting privileges per day, excepting where restricted for individuals on written orders of a physician. Visiting hours shall be flexible and posted to permit and encourage visiting by relatives and friends.

H 32.05(4)(m), page 83 (m) The administrator shall provide such qualified personnel and complementary services as are necessary to assure the health, safety, rights, proper care and treatment of the residents.

H 32.05(15), page 85 (15) NOTIFICATION OF CHANGES IN RESIDENT STATUS. There shall be appropriate written policies and procedures relating to notification of the resident, guardian or other responsible person in the event of significant change in resident status, resident charges, services available, billings and other related administrative matters.

H 32.05(15)(a), page 85 (a) Residents shall not be transferred without prior notification of next of kin or sponsor except in case of emergency.

H 32.05(15)(c), page 85 (c) A resident shall be admitted only after completion of a written admission agreement which shall include the following provisions:

H 32.05(15)(c)1. 1. A written list of all services which are furnished by the nursing home and paid for as part of the specified daily, weekly, or monthly rate, other services available, and the charges for such services.

H 32.05(15)(c)4., page 85 4. A record of any personal money or valuables deposited with the nursing home shall be maintained for the resident regardless of source. If the resident delegates responsibility to the facility to make purchases from these personal monies, proper receipts shall be kept and proper notations made in a separate bookkeeping system. If such a delegation is accepted, accounting shall be made according to section H 32.055(1)(c) Wis. Adm. Code.

H 32.05(16), page 86 (16) ABUSE. No one shall abuse or punish any resident. This includes but is not limited to physical force, verbal abuse, confinement to a room or withholding food and water, as defined in section 940.29, Wis. Stats., and as defined in section H 32.055(1)(k) Wis. Adm. Code.

H 32.05(17), (page 86 DELETE)

H 32.05(18), (page 86 DELETE)

H 32.05(19), page 86 (18) (as a result of above (18) deletion)

H 32.06(1)(o), page 86 (o) Resident Rights.

H 32.07(2)(b), page 89 (b) The resident or guardian shall be fully informed of treatment and care and shall participate in the planning of treatment and care.

H 32.07(2), page 89 (c), (d), (e). (lettering change because of new (b))

H 32.07(2)(e), (page 89 DELETE)

H 32.07(2)(f), (page 89 DELETE)

H 32.07(2)(g), page 89 (f), (g), (h). (as a result of deletion of (f) above)

H 32.10(4), page 97 (4) PHYSICAL RESTRAINTS. (a) Physical restraint includes but is not limited to any article, device or garment which interferes with the free movement of the resident and which the resident is unable to remove easily, and confinement in a locked room.

H 32.10(4)(b)2., page 97 2. In an emergency a physical restraint may be applied temporarily and the physician notified immediately when necessary to protect the resident or others from injury or to protect property.

H 32.10(4)(b)4., page 97 4. Any use of physical restraints shall be noted in the resident medical record and a comment shall be made in the clinical record during the period physical restraints are applied, dated and signed by the person caring for the resident on each tour of duty.

H 32.10(6), page 98 (6) Resident Care Plan

H 32.10(6)(b) page 98 (b) The resident or guardian shall be fully informed of treatment and care and shall participate in the planning of treatment and care.

H 32.10(6), page 98 (c), (d), (e), (f) (as a result of a new (b) above)

H 32.12(1)(f), page 100 (f) Dresser or drawer space. There shall be adequate compartment or drawer space within the resident room or convenient thereto to enable the resident to retain personal clothing and effects and to retain, as space permits, other personal possessions in a reasonably secure manner.

H 32.12(1)(j), page 100 (j) Cubicle curtains or screens. Flame retardant cubicle curtains or screens shall be used as needed to shield the patients from each other and the doorway in all bedrooms where the physical room arrangement does not provide privacy.

H 32.13(1)(e) page 102 (e) Appropriate staff training shall be provided to implement resident rights established under section 146.309, Wis., Stats., and section H 32.055 Wis. Adm. Code.

H 32.13(2)(a)2. page 102 2. Orientation to the rights of residents;

H 32.13(2)(a), page 102 3., 4., (as a result of new 2. above)

H 32.13(3)(f), page 102 (f) In-service education for all the staff shall include but not be limited to, the following: training in and familiarity with resident care policies and procedures; rights of residents; confidentiality of resident information, with special emphasis on interpersonal relationships; fire safety; infection control and accident prevention.

H 32.19, page 104g H 32.19 Restorative services. Restorative services shall be provided upon written order of the physician.

H 32.19, page 104g (1) PLAN OF CARE. Restorative services shall be provided under a written plan of care, initiated by the physician and developed in consultation with the resident or resident's guardian and with appropriate therapists and the nursing service. Therapy shall be provided only upon written orders of the attending physician. A report of patient progress shall be communicated to the attending physician within 2 weeks of the initiation of specialized restorative services. The patient progress shall be thereafter reviewed regularly, and the plan of restorative care reevaluated as necessary, but at least every 30 days, by the physician and the therapist(s).

H 32.20(2), page 104h (2) Resident rights. (a) The resident shall have the right to use the pharmacist of the resident's choice and shall be informed of that right. Any pharmacist delivering medication to a long-term care facility shall comply with the pharmaceutical policies and procedures of that facility, which shall be reviewed and approved by the Department to ensure compliance with Chapter H 32, Wisconsin Administrative Code.

H 32.20(a)(b), page 104h (b) The resident shall be free of chemical restraints, except as authorized in writing by a physician for a specified and limited period of time and documented in the medical record. Chemical restraints means the use of medications, including but not limited to tranquilizers and sedatives, for the primary purpose of modifying the resident behavior or of making the resident more manageable.

H 32.20(2) (3) (as a result of new (2) above)

H 32.20(3) (4) (as a result of new (2) above)

H 32.20(4) (5) (as a result of new (2) above)

H 32.20(5) (6) (as a result of new (2) above)

H 32.20(6) (7) (as a result of new (2) above)

H 32.20(7) (8) (as a result of new (2) above)

H 32.20(8) (9) (as a result of new (2) above)

H 32.23, page 104p H 32.23 Social services. The home shall have satisfactory arrangements for identifying the health related psychosocial needs of residents and shall provide services for the identified needs.

H 32.23(1), page 104p (1) Provision for Health Related Psychosocial Needs. The social services program shall meet the following requirements:

H 32.23(1)(a), page 104p (a) Preadmission or admission interviews with the resident, and family members where available, and evaluations with recording of relevant information regarding the needs of each resident, the plan for providing needed care and the probable duration of the need for care. Where the resident is incompetent or cannot fully participate, the resident shall be involved to the extent possible and the interview conducted with the resident's guardian, family members or sponsor.

H 32.25, page 104r H 32.25 Clinical Records. (5) Confidentiality of records. All information contained in the clinical record shall be treated as confidential and disclosed only to authorized persons. A resident has the right to approve or refuse the release of clinical records, or any information contained in such records, to any individual outside the facility, except in the case of transfer to another facility or as required by law, federal regulation, or third party payment contracts.

TO CREATE a new section H 32.055 beginning on page 86 before H 32.06 Patient Care Policies called RESIDENT RIGHTS:

H 32.055 Rights of residents. (1) Every resident in a nursing home shall have the right to:

H 32.055(1)(a), (1)(a) Private and unrestricted communications with family, physician, attorney and any other person, unless medically contraindicated as documented by the physician in the medical record, except that communications with public officials or with the attorney shall not be restricted in any event. The right to private and unrestricted communications shall include, but is not limited to, the right to;

H 32.055(1)(a)1., 1. Receive, send and mail sealed, unopened correspondence, and no resident incoming or outgoing correspondence shall be opened, delayed, held or censored, except on the written authorization of the resident or guardian.

H 32.055(1)(a)2., 2. Reasonable access to a telephone for private communications.

H 32.055(1)(a)3., 3. The opportunity for private visits.

H 32.055(1)(b), (b) Present grievances to the facility staff or administrator, to public officials or to any other person without justifiable fear of reprisal, and to join with other residents or individuals within or outside of the facility to work for improvements in resident care.

H 32.055(1)(c), (c) Manage their own financial affairs, including any personal allowances under federal or state programs, unless the resident delegates in writing such responsibility to the facility and the facility accepts the responsibility or unless the resident delegates to someone else chosen by the resident and that person accepts the responsibility. The resident shall receive, upon written request by the resident or guardian, a written monthly account of any financial transactions made by the facility under such a delegation of responsibility.

H 32.055(1)(d), (d) Be fully informed, in writing, prior to or at the time of admission of all services included in the per diem rate, other services available, the charges for such services and be informed, in writing, during the resident stay of any changes in services available or in charges for services.

H 32.055(1)(e), (e) Be treated with courtesy, respect and full recognition of dignity and individuality, by all employees of the facility and licensed, certified or registered providers of health care and pharmacists making contact with the resident.

H 32.055(1)(f), (f) Physical and emotional privacy in treatment, living arrangements and in caring for personal needs, including, but not limited to:

H 32.055(1)(f)1., 1. Privacy for visits by spouses. If both spouses are residents of the same facility, they shall be permitted to share a room unless medically contraindicated as documented by the physician in the medical record.

H 32.055(1)(f)2., 2. Privacy concerning health care. Case discussion, consultation, examination and treatment are confidential and shall be conducted discreetly. Persons not directly involved in the resident care shall require the resident's permission to authorize their presence.

H 32.055(1)(f)3., 3. Confidentiality of health and personal records, and the right to approve or refuse their release to any individual records, and the right to approve or refuse their release to any individual outside the facility, except in the case of resident transfer to another facility or as required by law or third-party payment contracts.

H 32.055(1)(g), (g) Not be required to perform services for the facility that are not included for therapeutic purposes in the plan of care.

H 32.055(1)(h), (h) Meet with, and participate in activities of social, religious and community groups as desired, unless medically contraindicated as documented by the physician in the medical record.

H 32.055(1)(i), (i) Retain and use personal clothing and effects and to retain, as space permits, other personal possessions in a reasonably secure manner.

H 32.055(1)(j), (j) Be transferred or discharged and given reasonable advance notice of any planned transfer or discharge, and an explanation of the need for and alternatives to such transfer or discharge except in a medical emergency. The facility to which the resident is to be transferred must have accepted the resident for transfer, except in a medical emergency.

H 32.055(1)(k), (k) Be free from mental and physical abuse, and be free from chemical and physical restraints except as authorized in writing by a physician for a specified and limited period of time and documented in the medical record, except that physical restraints may be used in an emergency when necessary to protect the resident or others from injury or to protect property. The physician shall be notified immediately, and authorization for continuing use of the physical restraints shall be secured from a physician within 12 hours. Any use of physical restraints shall be noted in the medical record. "Physical restraints" include, but are not limited to, any article, device or garment which interferes with the free movement of the resident and which the resident is unable to remove easily, and confinement in a locked room.

H 32.055(1)(l), (l) Receive adequate and appropriate care within the capacity of the facility.

H 32.055(1)(m), (m) Use the licensed, certified or registered provider of health care and pharmacist of choice.

H 32.055(1)(n), (n) Be fully informed of treatment and care and participate in planning of treatment and care.

H 32.055(2) (2) If the resident is adjudged to be incompetent under sections 51 or 880 Wis. Stats., and not restored to legal capacity, the rights and responsibilities under this section which the resident is not competent to exercise shall devolve upon the guardian.

H 32.055(3) (3) Each facility shall make available a copy of the rights and responsibilities established under this section and the facility rules to each resident or guardian prior to the time of admission to the facility, to each person who is a resident of the facility on the effective date of this act and to each member of the facility staff. The rights, responsibilities and rules shall be posted in a prominent place in each facility. Each facility shall prepare a written plan and provide appropriate staff training to implement the rights of each resident established under this section.

H 32.055(4) (4) Rights established under this section shall not, except as determined by the department, be applicable to any resident who is in the legal custody of the department and is a correctional client in such facility.

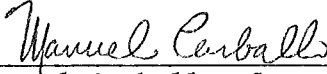
H 32.055(4)(a) (a) Each facility shall establish a system of reviewing complaints and allegations of violations of resident rights established under this section. The facility shall designate a specific individual who, for the purposes of effectuating this section, shall report to the administrator.

H 32.055(4)(b) (b) Allegations of violations of such rights by persons licensed, certified or registered under section 441: division of nurses; 446: chiropractic examining board; 447: dentistry examining board; 448: medical examining board; 449: optometry examining board; 450: pharmacy examining board; 455: psychology examining board; and 456: nursing home administrator examining board, Wis. Stats., shall be promptly reported by the facility to the appropriate licensing or examining board or to the person against whom the allegation has been made. Any employee of the facility or any person licensed, certified or registered under sections 441, 446 to 450, 455 and 456 of the statutes may also report such allegations to the board.

H 32.055(4)(c) (c) No person who files a report as required in paragraph (b) or who participates in good faith, in the review system established under paragraph (a) shall be liable for civil damages for such acts.

H 32.055(4)(d) (d) The facility shall attach a statement, which summarizes complaints or allegations of violations of rights established under this section, to an application for a new license or a renewal of its license. Such statement shall contain the date of the complaint or allegation, the name of the persons involved, the disposition of the matter and the date of disposition. The department shall consider such statement in reviewing the application.

The rules contained herein shall take effect in accordance with Section 227.026(1), Wis. Stats., subject to the provisions of Section 14.06, Wis. Stats.



Manuel Carballo, Secretary
Department of Health and Social Services

Dated December 16, 1976

SEAL

Gary Poulson
for your information
to cross-refer with the
rules themselves.
Stan Balliet

INTERPRETIVE GUIDELINES DOCUMENT

H 32

NURSING HOME RULES

AMENDMENTS

AND

CREATION OF NEW SECTION

R E S I D E N T R I G H T S A N D C U B I C L E C U R T A I N S

December 17, 1976

AUGUST 27, 1976 HEARING
OCTOBER 15, 1976 CORRECTED DRAFT

TO AMEND CERTAIN RULES AND TO CREATE
A NEW SECTION PURSUANT TO CHAPTER 119 - LAWS OF 1975.
WITHIN THE CURRENT (DEC. 1, 1974 EDITION) H 32
WISCONSIN ADMINISTRATIVE CODE NURSING HOME RULES

AMENDMENTS

RULE

H 32.01(2), page 75 (2) ~~Patient~~ RESIDENT. Patient Resident means an individual cared for or treated in any nursing home, regardless of how admitted.

RULE

H 32.01(4), page 76 (4) STANDARDS. The department may develop, establish and enforce standards (a) for the care, treatment, health, safety, rights, welfare and comfort of ~~patients~~ residents in nursing homes, and

RULE

H 32.03(2)(d), (NEW RULE) page 80 (d) The facility shall attach a statement, which summarizes complaints or allegations of violations of rights established under section 146.309, Wis. Stats., and this chapter, to an application for a new license or a renewal of its license. This statement shall contain the date of the complaint or allegation, the name of the persons involved, the disposition of the matter and the date of disposition.

RATIONALE

Submitted of this complaint summary in connection with application for licensure or relicensure clearly implies that the Department shall consider the content of the complaint summary as part of its licensure decisions. The only grounds for denial, suspension, or revocation of license remain "substantial failure to comply" with the totality of H 32. As a practical matter, licensure sanctions will seldom be sought on the basis of the complaint summary, as such, but rather on the basis of detailed investigations which might be initiated as a result of the contents of the complaint summary.

The rule is primarily intended to:

1. Provide the nursing home with a self-analysis tool to aid in identifying and correcting major deficits in resident satisfaction, and
2. Provide the Department with identification of areas concerning which additional consultation should be offered to the nursing home and/or residents.

INTERPRETATION

The home may limit allegations reported to those which are submitted in written form. The home is expected to inform residents of this limitation and to offer any needed assistance to any resident who wishes to reduce a complaint to writing.

The home should not submit the text or details of the complaints, but should submit a summary of complaints on the form provided by the Department (See Attachment #1).

RULE

H 32.04(4), page 81 (4) RIGHTS OF INJUNCTION. (a) Licensed nursing homes. Notwithstanding the existence or pursuit of any other remedy, the department may upon the advice of the attorney general who shall represent the department in all proceedings, maintain an action in the name of the state in the circuit court for injunction or other process against any licensee, owner, operator, administrator or representative of any owner of a nursing home to restrain and enjoin the repeated violation of any of the provisions of this chapter where the violation affects the health, safety, rights or welfare of the ~~patients~~ residents.

RULE

H 32.04(4)(c), page 81 (c) Enforcement by counties maintaining inspection programs. The county board of any county conducting inspections under 146.30(3)(b), Wis. Stats., may, upon notifying the department that a nursing home is in violation of this chapter, authorize the district attorney to maintain an action in the name of the state in circuit court for injunction or other process against such nursing home, its owner, operator, administrator or representative, to restrain and enjoin repeated violations where such violations affect the health, safety, rights or welfare of the ~~patients~~ residents.

RULE

H 32.05(4)(g), page 83 (g) The administrator shall be responsible for seeing that all employees are properly instructed in the discharge of their duties and are provided with training to implement resident rights established under section 146.309, Wis. Stats., and this chapter.

RATIONALE

Residents' rights, as a part of daily living, are often directly dependent on the attitudes and actions of the nursing home staff, particularly nursing aides. Awareness of residents' rights and practical instruction on how to protect those rights is mandated for all nursing home employees.

INTERPRETATION

The training required should normally be part of the in-service curriculum, with appropriate materials and scheduled time. When similarly documented, however, comparable training efforts are acceptable - e.g. - special courses taught by the administrator, the social services department, etc.

RULE

H 32.05(4)(i), page 83 (i) The administrator shall have a policy with reference to visitors consistent with the rights of residents under section H 32.055 Wisconsin Administrative Code. There shall be a minimum of eight hours of visiting privileges per day, excepting where restricted for individuals on written orders of a physician. Visiting hours shall be flexible and posted to permit and encourage visiting by relatives and friends.

RULE

H 32.05(4)(m), page 83 (m) The administrator shall provide such qualified personnel and complementary services as are necessary to assure the health, safety, rights, proper care and treatment of the patients residents.

RULE

H 32.05(15), page 85 (15) NOTIFICATION OF CHANGES IN RESIDENT PATIENT STATUS. There shall be appropriate written policies and procedures relating to notification of the resident, and of guardian or other responsible person in the event of significant change in patient resident status, resident patient charges, services available, billings and other related administrative matters.

RULE

H 32.05(15)(a), page 85 (a) Residents Patients shall not be transferred without prior notification of next of kin or sponsor except in case of emergency.

INTERPRETATION

See Interpretation for H 32.055(1)(j).

RULE

H 32.05(15)(c), page 85 (c) A patient resident shall be admitted only after completion of a written admission agreement which shall include the following provisions:

RULE

H 32.05(15)(c)1. 1. A written list of ~~basic~~ all services which are furnished by the nursing home and paid for as part of the specified daily, weekly, or monthly rate, and extra charge services other services available, and the charges for such services.

RULE

H 32.05(15)(c)4., page 85 4. A record of any personal money or valuables deposited with the nursing home shall be maintained for the resident regardless of source. If purchases are made the resident delegates responsibility to the facility to make purchases from these personal monies, proper receipts shall be kept and proper notations made in a separate bookkeeping system. If such a delegation is accepted, accounting shall be made according to section H 32.055(1)(c) Wis. Adm. Code.

RULE

H 32.05(16), page 86 (16) ABUSE. No one shall abuse or punish any patient resident. This includes but is not limited to physical force, verbal abuse, confinement to a room or withholding food and water, and as defined in chapter section 940.29, Wis. Stats., and as defined in section H 32.055(1)(k) Wis. Adm. Code.

RULE

H 32.05(17), page 86 ~~(17)~~ MAIL. Incoming and outgoing mail belonging to the patient shall not be tampered with except on a written authorization of the patient or guardian.

RULE

H 32.05(18), page 86 ~~(18)~~ TELEPHONE. Patients shall have access to a public telephone at a convenient location in the building.

RULE

H 32.05(19), page 86 ~~(19)~~ (18)

RULE

H 32.06(1)(o) (NEW RULE) page 86 (o) Resident Rights.

RULE

H 32.07(2)(b) (NEW RULE) page 89 (b) The resident or guardian shall be fully informed of treatment and care and shall participate in the planning of treatment and care.

RULE

H 32.07(2), page 89 ~~(b)~~ (c), ~~(e)~~ (d), ~~(d)~~ (e).

RULE

H 32.07(2)(e), page 89 ~~(e)~~ orders concerning medications and treatments shall be in effect for the specified number of days indicated by the physician but in no case shall exceed a period of 30 days unless recorded in writing by the physician.

RULE

H 32.07(2)(f), page 89 ~~(f)~~ Telephone orders shall be accepted only when necessary and only by licensed personnel pertinent to the order given. Telephone orders are written into the appropriate clinical record by the nurse receiving them and shall be countersigned by the physician within 72 hours and filed in the chart within ten days.

RULE

H 32.07(2)(g), page 89 ~~(g)~~ (f), ~~(h)~~ (g), ~~(i)~~ (h).

RULE

H 32.10(4), page 97 (4) PHYSICAL RESTRAINTS. (a) ~~A physical restraint~~ Physical restraint includes but is not limited to any article, device or garment which interferes with the free movement of the resident and which the resident is unable to remove easily, and confinement in a locked room.

RULE

H 32.10(4)(b)2., page 97 2. In an emergency a physical restraint may be applied temporarily and the physician notified immediately when necessary to protect the resident or others from injury or to protect property.

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H 32.10(4)(b)4., page 97 4. Any use of physical restraints shall be noted in the resident medical record and a A comment shall be made in the clinical record during the period physical restraints are applied, dated and signed by the person caring for the ~~patient~~ resident on each tour of duty.

RULE

H 32.10(6), page 98 (6) ~~Patient~~ Resident Care Plan

RULE

H 32.10(6)(b) (NEW RULE) page 98 (b) The resident or guardian shall be fully informed of treatment and care and shall participate in the planning of treatment and care.

RULE

H 32.10(6), page 98 ~~(b)~~ (c), ~~(e)~~ (d), ~~(d)~~ (e), ~~(e)~~ (f)

RULE

H 32.12(1)(f), page 100 (f) Dresser or drawer space. There shall be adequate compartment or drawer space within the ~~patient~~ resident room or convenient thereto to enable the resident to retain personal clothing and effects and to retain, as space permits, other personal possessions in a reasonably secure manner.

INTERPRETATION

"Adequate", "as space permits", and "reasonably secure" are all judgmental phrases for which no detailed cubic footage or specified lock systems can be defined in advance for statewide application. If violations of this rule are cited, the burden of proof will be borne by the Department and based on all the pertinent facts of the individual situation.

RULE

H 32.13(1)(e) (NEW RULE) page 102 (e) Appropriate staff training shall be provided to implement resident rights established under section 146.309, Wis. Stats., and section H 32.055 Wis. Adm. Code.

RATIONALE

See H 32.05(4)(g).

INTERPRETATION

See H 32.05(4)(g).

RULE

H 32.13(2)(a)2. NEW RULE page 102 2. Orientation to the rights of residents;

RULE

H 32.13(2)(a), page 102 ~~2.~~ 3., ~~3.~~ 4.

RULE

H 32.13(3)(f), page 102 (f) In-service education for all the staff ~~which~~ shall include but not be limited to, the following: training in and familiarity with patient resident care policies and procedures; rights of residents; confidentiality of patient resident information, with special emphasis on interpersonal relationships; fire safety; infection control and accident prevention.

RATIONALE

See H 32.05(4)(g).

INTERPRETATION

See H 32.05(4)(g).

RULE

H 32.19, page 104g H 32.19 Restorative services. Restorative services shall be provided upon written order of the physician.

RULE

H 32.19, page 104g (1) PLAN OF CARE. Restorative services shall be provided under a written plan of care, initiated by the physician and developed in consultation with the resident or resident's guardian and with appropriate therapists and the nursing service. Therapy shall be provided only upon written orders of the attending physician. A report of patient progress shall be communicated to the attending physician within 2 weeks of the initiation of specialized restorative services. The patient progress shall be thereafter reviewed regularly, and the plan of restorative care reevaluated as necessary, but at least every 30 days, by the physician and the therapist(s).

RULE

H 32.20(2) (NEW RULE) page 104h (2) Resident rights. (a) The resident shall have the right to use the pharmacist of the resident's choice and shall be informed of that right. Any pharmacist delivering medication to a long-term care facility shall comply with the pharmaceutical policies and procedures of that facility, which shall be reviewed and approved by the Department to ensure compliance with Chapter H 32, Wisconsin Administration Code.

RATIONALE

This rule is intended to place the choice of pharmacists squarely in the hands of the resident. Since the nursing home is required elsewhere in H 32.20, however, to develop "appropriate methods and procedures for the obtaining, dispensing, and administering of medications," the pharmacist of the resident's choice must be able and willing to comply with those procedures.

INTERPRETATION

Pharmaceutical procedures must be written so that they can, with reasonable effort, be complied with by pharmacists engaged in the normal scope of business. Procedures that are so narrowly drawn as to have the effect of limiting pharmacists to those of the nursing homes' choice are not approvable.

RULE

H 32.20(a)(b) (NEW RULE) page 104h (b) The resident shall be free of chemical restraints, except as authorized in writing by a physician for a specified and limited period of time and documented in the medical record. Chemical restraints means the use of medications, including but not limited to tranquilizers and sedatives, for the primary purpose of modifying the resident behavior or of making the resident more manageable.

RULE

H 32.20(2) ~~(2)~~ (3)

RULE

H 32.20(3) ~~(3)~~ (4)

RULE

H 32.20(4) ~~(4)~~ (5)

RULE

H 32.20(5) ~~(5)~~ (6)

RULE

H 32.20(6) ~~(6)~~ (7)

RULE

H 32.20(7) ~~(7)~~ (8)

RULE

H 32.20(8) ~~(8)~~ (9)

RULE

H 32.23, page 104p H 32.23 Social services. The home shall have satisfactory arrangements for identifying the health related psycho-social needs of patients residents and shall provide services for the identified needs.

RULE

H 32.23(1), page 104p (1) Provision for Health Related Psychosocial Needs. The social services program shall meet the following requirements:

RULE

H 32.23(1)(a), page 104p (a) Preadmission or admission interviews with ~~residents~~ the resident, and/or family members where available, and evaluations with recording of relevant information regarding the needs of each resident, the plan for providing needed care and the probable duration of the need for care. Where the resident is incompetent or cannot fully participate, the resident shall be involved to the extent possible and the interview conducted with the resident's guardian, family members or sponsor.

RULE

H 32.25, page 104r H 32.25 Clinical Records. (5) Confidentiality of records. All information contained in the clinical record shall be treated as confidential and disclosed only to authorized persons. A resident has the right to approve or refuse the release of clinical records, or any information contained in such records, to any individual outside the facility, except in the case of transfer to another facility or as required by law, federal regulation, or third party payment contracts.

CREATION OF NEW SECTION
H 32.055
RIGHTS OF RESIDENTS

RULE

H 32.055 (NEW RULE) page 86 H 32.055 Rights of residents. (1)
Every resident in a nursing home shall have the right to:

RULE

H 32.055(1)(a), page 86 (1)(a) Private and unrestricted communications with family, physician, attorney and any other person, unless medically contraindicated as documented by the physician in the medical record, except that communications with public officials or with the attorney shall not be restricted in any event. The right to private and unrestricted communications shall include, but is not limited to, the right to;

RULE

H 32.055(1)(a)1., page 86 1. Receive, send and mail sealed, unopened correspondence, and no resident incoming or outgoing correspondence shall be opened, delayed, held or censored, except on the written authorization of the resident or guardian.

RULE

H 32.055(1)(a)2., page 86 2. Reasonable access to a telephone for private communications.

RULE

H 32.055(1)(a)3., page 86 3. The opportunity for private visits.

RULE

H 32.055(1)(b), page 86 (b) Present grievances to the facility staff or administrator, to public officials or to any other person without justifiable fear of reprisal, and to join with other residents or individuals within or outside of the facility to work for improvements in resident care.

RULE

H 32.055(1)(c), page 86 (c) Manage their own financial affairs, including any personal allowances under federal or state programs, unless the resident delegates in writing such responsibility to the facility and the facility accepts the responsibility or unless the resident delegates to someone else chosen by the resident and that person accepts the responsibility. The resident shall receive, upon written request by the resident or guardian, a written monthly account of any financial transactions made by the facility under such a delegation of responsibility.

RATIONALE

The resident has the right to effectively control his/her personal financial affairs.

INTERPRETATION

A home may establish a reasonable limit on its liability for the amount of cash a resident keeps in his/her personal possession. A home must establish a procedure by which residents will have access to the assets.

RULE

H 32.055(1)(d), page 86 (d) Be fully informed, in writing, prior to or at the time of admission of all services included in the per diem rate, other services available, the charges for such services and be informed, in writing, during the resident stay of any changes in services available or in charges for services.

RULE

H 32.055(1)(e), page 86 (e) Be treated with courtesy, respect and full recognition of dignity and individuality, by all employees of the facility and licensed, certified or registered providers of health care and pharmacists making contact with the resident.

RULE

H 32.055(1)(f), page 86 (f) Physical and emotional privacy in treatment, living arrangements and in caring for personal needs, including, but not limited to:

RULE

H 32.055(1)(f)1., page 86 1. Privacy for visits by spouses. If both spouses are residents of the same facility, they shall be permitted to share a room unless medically contraindicated as documented by the physician in the medical record.

RULE

H 32.055(1)(f)2., page 86 2. Privacy concerning health care. Case discussion, consultation, examination and treatment are confidential and shall be conducted discreetly. Persons not directly involved in the resident care shall require the resident's permission to authorize their presence.

RATIONALE

To prevent invasion of residents' privacy by persons who have no role to play in resident care.

INTERPRETATION

The right to exclude persons not directly involved in care is intended to apply where the resident is present and receiving examination or treatment. Case discussion is to be handled discreetly, but may be open for consultation purposes to facility staff not directly involved in the resident's care. (This section does not affect the right of access of department inspectors to information about treatment and care)

RULE

H 32.055(1)(f)3., page 86 3. Confidentiality of health and personal records, and the right to approve or refuse their release to any individual outside the facility, except in the case of resident transfer to another facility or as required by law or third-party payment contracts.

RULE

H 32.055(1)(g), page 86 (g) Not be required to perform services for the facility that are not included for therapeutic purposes in the plan of care.

RULE

H 32.055(1)(h), page 86 (h) Meet with, and participate in activities of social, religious and community groups as desired, unless medically contraindicated as documented by the physician in the medical record.

RULE

H 32.055(1)(i), page 86 (i) Retain and use personal clothing and effects and to retain, as space permits, other personal possessions in a reasonably secure manner.

RULE

H 32.055(1)(j), page 86 (j) Be transferred or discharged and given reasonable advance notice of any planned transfer or discharge, and an explanation of the need for and alternatives to such transfer or discharge except in a medical emergency. The facility to which the resident is to be transferred must have accepted the resident for transfer, except in a medical emergency.

RATIONALE

To prevent abrupt and unwarranted involuntary transfers.

INTERPRETATION

A "medical emergency" may include any situation presenting imminent danger to the resident's health or physical safety, as well as one arising from his/her individual medical status.

RULE

H 32.055(1)(k), page 86 (k) Be free from mental and physical abuse, and be free from chemical and physical restraints except as authorized in writing by a physician for a specified and limited period of time and documented in the medical record, except that physical restraints may be used in an emergency when necessary to protect the resident or others from injury or to protect property. The physician shall be notified immediately, and authorization for continuing use of the physical restraints shall be secured from a physician within 12 hours. Any use of physical restraints shall be noted in the medical record. "Physical restraints" include, but are not limited to, any article, device or garment which interferes with the free movement of the resident and which the resident is unable to remove easily, and confinement in a locked room.

RATIONALE

To prohibit the use of restraints for purposes other than the residents' needs - i.e. - convenience of staff, etc.

INTERPRETATION

The physicians' orders should reflect when, where, why and how restraints are to be used.

The orders should define the application of the restraint, identification of the type, the frequency of observation and the length of time in restraints. The execution of the orders should be recorded in the clinical record.

RULE

H 32.055(4)(c) (c) No person who files a report as required in paragraph (b) or who participates in good faith, in the review system established under paragraph (a) shall be liable for civil damages for such acts.

RULE

H 32.055(4)(d) (d) The facility shall attach a statement, which summarizes complaints or allegations of violations of rights established under this section, to an application for a new license or a renewal of its license. Such statement shall contain the date of the complaint or allegation, the name of the persons involved, the disposition of the matter and the date of disposition. The department shall consider such statement in reviewing the application.

RATIONALE

See H 32.03(2)(d).

INTERPRETATION

See H 32.03(2)(d).

RULE

H 32.12(1)(j), page 100 (j) Cubicle curtains and/or screens. Flame retardant cubicle curtains or screens shall be in the room and used as needed to shield the patients from each other and the doorway in all bedrooms where the physical room arrangement does not provide privacy.

RECOMMENDED CHANGE

H 32.12(1)(j), page 100 (j) Cubicle curtains ~~and/or~~ screens. Flame retardant cubicle curtains or screens shall be ~~in the room and~~ used as needed to shield the patients from each other and the doorway in all bedrooms where the physical room arrangement does not provide privacy.

RATIONALE

The crossed-out words are superfluous to the intent of the rule (insuring privacy), and, taken literally, are often contraindicated by expense factors. (Both in facility expense and staff time.)

INTERPRETATION

Curtains or screens need not be in the room if not needed to ensure privacy.

RULE

H 32.055(1)(1), page 86 (1) Receive adequate and appropriate care within the capacity of the facility.

RULE

H 32.055(1)(m), page 86 (m) Use the licensed, certified or registered provider of health care and pharmacist of choice.

RULE

H 32.055(1)(n), page 86 (n) Be fully informed of treatment and care and participate in planning of treatment and care.

RULE

H 32.055(2) (2) If the resident is adjudged to be incompetent under sections 51 or 880 Wis. Stats., and not restored to legal capacity, the rights and responsibilities under this section which the resident is not competent to exercise shall devolve upon the guardian.

RULE

H 32.055(3) (3) Each facility shall make available a copy of the rights and responsibilities established under this section and the facility rules to each resident or guardian prior to the time of admission to the facility, to each person who is a resident of the facility on the effective date of this act and to each member of the facility staff. The rights, responsibilities and rules shall be posted in a prominent place in each facility. Each facility shall prepare a written plan and provide appropriate staff training to implement the rights of each resident established under this section.

RATIONALE

To ensure that all concerned are aware of residents' rights, and that affirmative and continuing action is taken to protect those rights.

INTERPRETATION

"And the facility rules" (in second and third line above) means the rules of the facility relating to "the rights and responsibilities under the resident rights section". The home will also have a complete copy of DHSS's H 32 rules available for the use of patients. "Written plan" (in the last sentence) means that an explanation of resident rights be part of new employee orientation (policy) (document) and part of the plan for inservice training. See H 32.05(4)(g).

RULE

H 32.055(4) (4) Rights established under this section shall not, except as determined by the department, be applicable to any resident who is in the legal custody of the department and is a correctional client in such facility.

RULE

H 32.055(4)(a) (a) Each facility shall establish a system of reviewing complaints and allegations of violations of resident rights established under this section. The facility shall designate a specific individual who, for the purposes of effectuating this section, shall report to the administrator.

INTERPRETATION

The administrator may be the person designated. If a person other than the administrator is designated, he/she shall report directly to the administrator as to this responsibility. This should be reflected both in job descriptions and organization charts.

RULE

H 32.055(4)(b) (b) Allegations of violations of such rights by persons licensed, certified or registered under section 441: division of nurses; 446: chiropractic examining board; 447: dentistry examining board; 448: medical examining board; 449: optometry examining board; 450: pharmacy examining board; 455: psychology examining board; and 456: nursing home administrator examining board, Wis. Stats., shall be promptly reported by the facility to the appropriate licensing or examining board or to the person against whom the allegation has been made. Any employee of the facility or any person licensed, certified or registered under sections 441, 446 to 450, 455 and 456 of the statutes may also report such allegations to the board.

RATIONALE

To ensure resident access to the regulatory/licensing agencies responsible for standards of professional conduct.

INTERPRETATION

The home may limit allegations reported to those which are submitted in written form. The home is expected to inform residents of this limitation and to offer any needed assistance to any resident who wishes to reduce a complaint to writing.

AMENDMENT OF MISCELLANEOUS SUBSECTIONS
AND
CREATION OF A NEW SECTION
OF
WISCONSIN ADMINISTRATIVE CODE
CHAPTER H 32
(NURSING HOME RULES)

PROPOSED EFFECTIVE DATE
FEBRUARY 1, 1977

RECOMMENDED BY
DIVISION OF HEALTH
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
P. O. BOX 309, MADISON, WISCONSIN 53701

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
(HEALTH)

TO AMEND the following rules in H 32 Nursing Home Administrative Code effective February 1, 1977:

H 32.01(2), page 75 (2) RESIDENT. Resident means an individual cared for or treated in any nursing home, regardless of how admitted.

H 32.01(4), page 76 (4) STANDARDS. The department may develop, establish and enforce standards (a) for the care, treatment, health, safety, rights, welfare and comfort of residents in nursing homes, and

H 32.03(2)(d), page 80 (d) The facility shall attach a statement, which summarizes complaints or allegations of violations of rights established under section 146.309, Wis. Stats., and this chapter, to an application for a new license or a renewal of its license. This statement shall contain the date of the complaint or allegation, the name of the persons involved, the disposition of the matter and the date of disposition.

H 32.04(4), page 81 (4) RIGHTS OF INJUNCTION. (a) Licensed nursing homes. Notwithstanding the existence or pursuit of any other remedy, the department may upon the advice of the attorney general who shall represent the department in all proceedings, maintain an action in the name of the state in the circuit court for injunction or other process against any licensee, owner, operator, administrator or representative of any owner of a nursing home to restrain and enjoin the repeated violation of any of the provisions of this chapter where the violation affects the health, safety, rights or welfare of the residents.

H 32.04(4)(c), page 81 (c) Enforcement by counties maintaining inspection programs. The county board of any county conducting inspections under 146.30(3)(b), Wis. Stats., may, upon notifying the department that a nursing home is in violation of this chapter, authorize the district attorney to maintain an action in the name of the state in circuit court for injunction or other process against such nursing home, its owner, operator, administrator or representative, to restrain and enjoin repeated violations where such violations affect the health, safety, rights or welfare of the residents.

H 32.05(4)(g), page 83 (g) The administrator shall be responsible for seeing that all employees are properly instructed in the discharge of their duties and are provided with training to implement resident rights established under section 146.309, Wis. Stats., and this chapter.

H 32.05(4)(i), page 83 (i) The administrator shall have a policy with reference to visitors consistent with the rights of residents under section H 32.055 Wisconsin Administrative Code. There shall be a minimum of eight hours of visiting privileges per day, excepting where restricted for individuals on written orders of a physician. Visiting hours shall be flexible and posted to permit and encourage visiting by relatives and friends.

H 32.05(4)(m), page 83 (m) The administrator shall provide such qualified personnel and complementary services as are necessary to assure the health, safety, rights, proper care and treatment of the residents.

H 32.05(15), page 85 (15) NOTIFICATION OF CHANGES IN RESIDENT STATUS. There shall be appropriate written policies and procedures relating to notification of the resident, guardian or other responsible person in the event of significant change in resident status, resident charges, services available, billings and other related administrative matters.

H 32.05(15)(a), page 85 (a) Residents shall not be transferred without prior notification of next of kin or sponsor except in case of emergency.

H 32.05(15)(c), page 85 (c) A resident shall be admitted only after completion of a written admission agreement which shall include the following provisions:

H 32.05(15)(c)1. 1. A written list of all services which are furnished by the nursing home and paid for as part of the specified daily, weekly, or monthly rate, other services available, and the charges for such services.

H 32.05(15)(c)4., page 85 4. A record of any personal money or valuables deposited with the nursing home shall be maintained for the resident regardless of source. If the resident delegates responsibility to the facility to make purchases from these personal monies, proper receipts shall be kept and proper notations made in a separate bookkeeping system. If such a delegation is accepted, accounting shall be made according to section H 32.055(1)(c) Wis. Adm. Code.

H 32.05(16), page 86 (16) ABUSE. No one shall abuse or punish any resident. This includes but is not limited to physical force, verbal abuse, confinement to a room or withholding food and water, as defined in section 940.29, Wis. Stats., and as defined in section H 32.055(1)(k) Wis. Adm. Code.

H 32.05(17), (page 86 DELETE)

H 32.05(18), (page 86 DELETE)

H 32.05(19), page 86 (18) (as a result of above (18) deletion)

H 32.06(1)(o), page 86 (o) Resident Rights.

H 32.07(2)(b), page 89 (b) The resident or guardian shall be fully informed of treatment and care and shall participate in the planning of treatment and care.

H 32.07(2), page 89 (c), (d), (e). (lettering change because of new (b))

H 32.07(2)(e), (page 89 DELETE)

H 32.07(2)(f), (page 89 DELETE)

H 32.07(2)(g), page 89 (f), (g), (h). (as a result of deletion of (f) above)

H 32.10(4), page 97 (4) PHYSICAL RESTRAINTS. (a) Physical restraint includes but is not limited to any article, device or garment which interferes with the free movement of the resident and which the resident is unable to remove easily, and confinement in a locked room.

H 32.10(4)(b)2., page 97 2. In an emergency a physical restraint may be applied temporarily and the physician notified immediately when necessary to protect the resident or others from injury or to protect property.

H 32.10(4)(b)4., page 97 4. Any use of physical restraints shall be noted in the resident medical record and a comment shall be made in the clinical record during the period physical restraints are applied, dated and signed by the person caring for the resident on each tour of duty.

H 32.10(6), page 98 (6) Resident Care Plan

H 32.10(6)(b) page 98 (b) The resident or guardian shall be fully informed of treatment and care and shall participate in the planning of treatment and care.

H 32.10(6), page 98 (c), (d), (e), (f) (as a result of a new (b) above)

H 32.12(1)(f), page 100 (f) Dresser or drawer space. There shall be adequate compartment or drawer space within the resident room or convenient thereto to enable the resident to retain personal clothing and effects and to retain, as space permits, other personal possessions in a reasonably secure manner.

H 32.12(1)(j), page 100 (j) Cubicle curtains or screens. Flame retardant cubicle curtains or screens shall be used as needed to shield the patients from each other and the doorway in all bedrooms where the physical room arrangement does not provide privacy.

H 32.13(1)(e) page 102 (e) Appropriate staff training shall be provided to implement resident rights established under section 146.309, Wis., Stats., and section H 32.055 Wis. Adm. Code.

H 32.13(2)(a)2. page 102 2. Orientation to the rights of residents;

H 32.13(2)(a), page 102 3., 4., (as a result of new 2. above)

H 32.13(3)(f), page 102 (f) In-service education for all the staff shall include but not be limited to, the following: training in and familiarity with resident care policies and procedures; rights of residents; confidentiality of resident information, with special emphasis on interpersonal relationships; fire safety; infection control and accident prevention.

H 32.19, page 104g H 32.19 Restorative services. Restorative services shall be provided upon written order of the physician.

H 32.19, page 104g (1) PLAN OF CARE. Restorative services shall be provided under a written plan of care, initiated by the physician and developed in consultation with the resident or resident's guardian and with appropriate therapists and the nursing service. Therapy shall be provided only upon written orders of the attending physician. A report of patient progress shall be communicated to the attending physician within 2 weeks of the initiation of specialized restorative services. The patient progress shall be thereafter reviewed regularly, and the plan of restorative care reevaluated as necessary, but at least every 30 days, by the physician and the therapist(s).

H 32.20(2), page 104h (2) Resident rights. (a) The resident shall have the right to use the pharmacist of the resident's choice and shall be informed of that right. Any pharmacist delivering medication to a long-term care facility shall comply with the pharmaceutical policies and procedures of that facility, which shall be reviewed and approved by the Department to ensure compliance with Chapter H 32, Wisconsin Administrative Code.

H 32.20(a)(b), page 104h (b) The resident shall be free of chemical restraints, except as authorized in writing by a physician for a specified and limited period of time and documented in the medical record. Chemical restraints means the use of medications, including but not limited to tranquilizers and sedatives, for the primary purpose of modifying the resident behavior or of making the resident more manageable.

H 32.20(2) (3) (as a result of new (2) above)

H 32.20(3) (4) (as a result of new (2) above)

H 32.20(4) (5) (as a result of new (2) above)

H 32.20(5) (6) (as a result of new (2) above)

H 32.20(6) (7) (as a result of new (2) above)

H 32.20(7) (8) (as a result of new (2) above)

H 32.20(8) (9) (as a result of new (2) above)

H 32.23, page 104p H 32.23 Social services. The home shall have satisfactory arrangements for identifying the health related psychosocial needs of residents and shall provide services for the identified needs.

H 32.23(1), page 104p (1) Provision for Health Related Psychosocial Needs. The social services program shall meet the following requirements:

H 32.23(1)(a), page 104p (a) Preadmission or admission interviews with the resident, and family members where available, and evaluations with recording of relevant information regarding the needs of each resident, the plan for providing needed care and the probable duration of the need for care. Where the resident is incompetent or cannot fully participate, the resident shall be involved to the extent possible and the interview conducted with the resident's guardian, family members or sponsor.

H 32.25, page 104r H 32.25 Clinical Records. (5) Confidentiality of records. All information contained in the clinical record shall be treated as confidential and disclosed only to authorized persons. A resident has the right to approve or refuse the release of clinical records, or any information contained in such records, to any individual outside the facility, except in the case of transfer to another facility or as required by law, federal regulation, or third party payment contracts.

TO CREATE a new section H 32.055 beginning on page 86 before H 32.06
Patient Care Policies called RESIDENT RIGHTS:

H 32.055 Rights of residents. (1) Every resident in a nursing home shall have the right to:

H 32.055(1)(a), (1)(a) Private and unrestricted communications with family, physician, attorney and any other person, unless medically contraindicated as documented by the physician in the medical record, except that communications with public officials or with the attorney shall not be restricted in any event. The right to private and unrestricted communications shall include, but is not limited to, the right to;

H 32.055(1)(a)1., 1. Receive, send and mail sealed, unopened correspondence, and no resident incoming or outgoing correspondence shall be opened, delayed, held or censored, except on the written authorization of the resident or guardian.

H 32.055(1)(a)2., 2. Reasonable access to a telephone for private communications.

H 32.055(1)(a)3., 3. The opportunity for private visits.

H 32.055(1)(b), (b) Present grievances to the facility staff or administrator, to public officials or to any other person without justifiable fear of reprisal, and to join with other residents or individuals within or outside of the facility to work for improvements in resident care.

H 32.055(1)(c), (c) Manage their own financial affairs, including any personal allowances under federal or state programs, unless the resident delegates in writing such responsibility to the facility and the facility accepts the responsibility or unless the resident delegates to someone else chosen by the resident and that person accepts the responsibility. The resident shall receive, upon written request by the resident or guardian, a written monthly account of any financial transactions made by the facility under such a delegation of responsibility.

H 32.055(1)(d), (d) Be fully informed, in writing, prior to or at the time of admission of all services included in the per diem rate, other services available, the charges for such services and be informed, in writing, during the resident stay of any changes in services available or in charges for services.

H 32.055(1)(e), (e) Be treated with courtesy, respect and full recognition of dignity and individuality, by all employees of the facility and licensed, certified or registered providers of health care and pharmacists making contact with the resident.

H 32.055(1)(f), (f) Physical and emotional privacy in treatment, living arrangements and in caring for personal needs, including, but not limited to:

H 32.055(1)(f)1., 1. Privacy for visits by spouses. If both spouses are residents of the same facility, they shall be permitted to share a room unless medically contraindicated as documented by the physician in the medical record.

H 32.055(1)(f)2., 2. Privacy concerning health care. Case discussion, consultation, examination and treatment are confidential and shall be conducted discreetly. Persons not directly involved in the resident care shall require the resident's permission to authorize their presence.

H 32.055(1)(f)3., 3. Confidentiality of health and personal records, and the right to approve or refuse their release to any individual records, and the right to approve or refuse their release to any individual outside the facility, except in the case of resident transfer to another facility or as required by law or third-party payment contracts.

H 32.055(1)(g), (g) Not be required to perform services for the facility that are not included for therapeutic purposes in the plan of care.

H 32.055(1)(h), (h) Meet with, and participate in activities of social, religious and community groups as desired, unless medically contraindicated as documented by the physician in the medical record.

H 32.055(1)(i), (i) Retain and use personal clothing and effects and to retain, as space permits, other personal possessions in a reasonably secure manner.

H 32.055(1)(j), (j) Be transferred or discharged and given reasonable advance notice of any planned transfer or discharge, and an explanation of the need for and alternatives to such transfer or discharge except in a medical emergency. The facility to which the resident is to be transferred must have accepted the resident for transfer, except in a medical emergency.

H 32.055(1)(k), (k) Be free from mental and physical abuse, and be free from chemical and physical restraints except as authorized in writing by a physician for a specified and limited period of time and documented in the medical record, except that physical restraints may be used in an emergency when necessary to protect the resident or others from injury or to protect property. The physician shall be notified immediately, and authorization for continuing use of the physical restraints shall be secured from a physician within 12 hours. Any use of physical restraints shall be noted in the medical record. "Physical restraints" include, but are not limited to, any article, device or garment which interferes with the free movement of the resident and which the resident is unable to remove easily, and confinement in a locked room.

H 32.055(1)(l), (l) Receive adequate and appropriate care within the capacity of the facility.

H 32.055(1)(m), (m) Use the licensed, certified or registered provider of health care and pharmacist of choice.

H 32.055(1)(n), (n) Be fully informed of treatment and care and participate in planning of treatment and care.

H 32.055(2) (2) If the resident is adjudged to be incompetent under sections 51 or 880 Wis. Stats., and not restored to legal capacity, the rights and responsibilities under this section which the resident is not competent to exercise shall devolve upon the guardian.

H 32.055(3) (3) Each facility shall make available a copy of the rights and responsibilities established under this section and the facility rules to each resident or guardian prior to the time of admission to the facility, to each person who is a resident of the facility on the effective date of this act and to each member of the facility staff. The rights, responsibilities and rules shall be posted in a prominent place in each facility. Each facility shall prepare a written plan and provide appropriate staff training to implement the rights of each resident established under this section.

H 32.055(4) (4) Rights established under this section shall not, except as determined by the department, be applicable to any resident who is in the legal custody of the department and is a correctional client in such facility.

H 32.055(4)(a) (a) Each facility shall establish a system of reviewing complaints and allegations of violations of resident rights established under this section. The facility shall designate a specific individual who, for the purposes of effectuating this section, shall report to the administrator.

H 32.055(4)(b) (b) Allegations of violations of such rights by persons licensed, certified or registered under section 441: division of nurses; 446: chiropractic examining board; 447: dentistry examining board; 448: medical examining board; 449: optometry examining board; 450: pharmacy examining board; 455: psychology examining board; and 456: nursing home administrator examining board, Wis. Stats., shall be promptly reported by the facility to the appropriate licensing or examining board or to the person against whom the allegation has been made. Any employee of the facility or any person licensed, certified or registered under sections 441, 446 to 450, 455 and 456 of the statutes may also report such allegations to the board.

H 32.055(4)(c) (c) No person who files a report as required in paragraph (b) or who participates in good faith, in the review system established under paragraph (a) shall be liable for civil damages for such acts.

H 32.055(4)(d) (d) The facility shall attach a statement, which summarizes complaints or allegations of violations of rights established under this section, to an application for a new license or a renewal of its license. Such statement shall contain the date of the complaint or allegation, the name of the persons involved, the disposition of the matter and the date of disposition. The department shall consider such statement in reviewing the application.