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Chapter HFS 129

CERTIFICATION OF PROGRAMS FOR TRAINING AND TESTING NURSE ASSISTANTS, HOME HEALTH AIDES AND HOSPICE AIDES

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Note: Chapter HSS 129 was renumbered to chapter HFS 129 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 7., Stats., Register, June, 1999, No. 522.

HFS 129.01 Authority and purpose. This chapter is promulgated under the authority of ss. 146.40 (3) and (5) and 227.11 (2) (a), Stats., to provide conditions of certification for instructional programs and competency evaluation programs for persons who work as nurse assistants in hospitals, nursing homes or facilities for the developmentally disabled, as home health aides with home health agencies or as hospice aides with hospices certified under 42 USC 1395 to 1395ccc, and conditions for including persons in the department's registry of nurse assistants, home health aides and hospice aides.

History: Cr. Register, June, 1991, No. 426, eff. 7–1–91; emerg. am. eff. 10–1–91; am. Register, June, 1992, No. 438, eff. 7–1–92.

HFS 129.02 Applicability. This chapter applies to any facility, agency or other organization that proposes to train or undertake competency evaluation testing of nurse assistants, home health aides or hospice aides under a program certified by the department under this chapter, and to all persons automatically included or eligible for inclusion and requesting inclusion in the department's registry of nurse assistants, home health aides and hospice aides.

History: Cr. Register, June, 1991, No. 426, eff. 7–1–91; emerg. am. eff. 10–1–91; am. Register, June, 1992, No. 438, eff. 7–1–92.

HFS 129.03 Definitions. In this chapter:

(2) "Basic nursing course" means a course or combination of courses which contain the basic nursing skills, competencies and knowledges that the department is satisfied are generally equivalent in content to the items contained in s. HFS 129.07 (2).

(3) "Client" means a person receiving care, treatment or diagnostic services from a hospital, nursing home, facility for the developmentally disabled, home health agency or hospice.

(4) "Clinical setting" means a practice setting where care and treatment of clients occur.

(5) "Competency evaluation program" means a testing program for nurse assistants, home health aides or hospice aides that applies for certification under this chapter or is certified under this chapter and that consists of a written or oral examination and a skills demonstration examination.

(6) "Department" means the Wisconsin department of health and family services.

(7) "Employment" means working for another for compensation on a full–time, part–time, temporary, per diem, contractual or other basis.

(8) "Facility for the developmentally disabled" means a place or a distinct part of a place where 5 or more unrelated persons reside who, because of their developmental disabilities, require access to 24–hour nursing care or to treatment for a developmental disability as defined in s. HFS 134.13 (9). "Facility for the developmentally disabled" does not include any of the following:

(a) A convent or facility owned or operated exclusively by and for members of a religious order that provides reception and care or treatment of an individual.

(b) A hospice that directly provides inpatient care.

(c) A residential care apartment complex, as defined under s. 50.01 (1d), Stats.

(d) A nursing home.

(9) "Handicapping condition" means a physical or mental impairment which makes ability to care for oneself unusually difficult or limits the capacity to work.

(10) "Home health agency" has the meaning specified in s. 50.49 (1) (a), Stats.

(11) "Home health aide" means an individual employed by or under contract with a home health agency to provide home health aide services under the supervision of a registered nurse. "Home health aide" does not mean an individual who is licensed, permitted, certified or registered under ch. 441, 448, 449, 450, 455 or 459, Stats.

(11m) "Hospice" has the meaning specified in s. 50.90 (1), Stats., and is certified as a provider of services under 42 USC 1395 to 1395ccc.

(11r) "Hospice aide" means an individual employed by or under contract with a hospice to provide hospice aide services under the supervision of a registered nurse. "Hospice aide" does not mean an individual who is licensed, permitted, certified or registered under ch. 441, 448, 449, 450, 455 or 459, Stats., or who is a volunteer.

(12) "Hospital" has the meaning specified in s. 50.33 (2), Stats.

(13) "Instructional program" means a training program for nurse assistants, home health aides or hospice aides that applies for certification under this chapter or is certified under this chapter.

(14) "Nurse's assistant" means an individual who performs routine patient care duties delegated by the registered nurse or licensed practical nurse who supervises the individual, for the direct health care of a client. "Nurse's assistant" does not mean a person who is licensed, receives a permit, is certified or is registered under ch. 441, 448, 449, 450, 451, 455 or 459, Stats., or an individual whose duties primarily involve skills that are different from those taught in instructional and competency evaluation programs certified under s. HFS 129.05. In this subsection, "registered nurse" means a nurse licensed as a registered nurse under s. 441.06, Stats., or who has a temporary permit under s. 441.08, Stats, and"licensed practical nurse" means a nurse who is licensed or has a temporary permit under s. 441.10, Stats.

(15) "Nursing home" has the meaning specified in s. 50.01 (3), Stats.

(16) "Program" means an instructional program, a competency evaluation program or an instructional and competency evaluation program, or the facility, agency or other organization

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or individual that administers the instructional, competency evaluation or instructional and competency evaluation program.

(17) "Registrant" means a nurse's assistant, home health aide or hospice aide included in the registry.

(18) "Registry" means the department's record, in the form of a list, of persons who have successfully completed an instructional and competency evaluation program or a competency evaluation program or are otherwise eligible under s. HFS 129.10 (3) to be included in the list.

(19) "Student nurse" means an individual who is currently enrolled in a school for professional nurses or a school for licensed practical nurses that meets standards established under s. 441.01 (4), Stats., and ch. N 1, or who has successfully completed the course work of a basic nursing course of the school but has not successfully completed the examination under s. 441.05 or 441.10 (2), Stats.

History: Cr. Register, June, 1991, No. 426, eff. 7–1–91; emerg. am. (3), (5), (13) and (17), cr. (11m) and (11r), eff. 10–1–91; am. (3), (5), (13) and (17), cr. (11m) and (11r), Register, June, 1992, No. 438, eff. 7–1–92; r. and recr. (1), Register, December, 1992, No. 444, eff. 1–1–93; **emerg. r. (1), am. (6), (10) and (11m), r. and recr. (8), eff. 10–1–98; r. (1), am. (6), (10) and (11m), r. and recr. (8), Register, June, 1999, No. 522, eff. 7–1–99**.

HFS 129.04 Waivers and variances. (1) DEFINITIONS. In this section:

(a) "Variance" means the granting of an alternate requirement in place of a requirement of this chapter.

(b) "Waiver" means the granting of an exemption from a requirement of this chapter.

(2) REQUIREMENTS FOR WAIVERS OR VARIANCES. A waiver or variance may be granted if the department finds that the waiver or variance will not adversely affect the health, safety or welfare of any client and that:

(a) Strict enforcement of a requirement would result in unreasonable hardship on the instructional program or competency evaluation program; or

(b) An alternative to a rule, including new concepts, methods, procedures, techniques, equipment, personnel qualifications or the conducting of a pilot project, is in the interest of more effective training or testing programs or management.

(3) PROCEDURES. (a) *Requests.* 1. All requests for waiver of or variance from a requirement of this chapter shall be made in writing to the department, specifying the following:

a. The rule from which the waiver or variance is requested;

b. The time period for which the waiver or variance is requested;

c. If the request is for a variance, the specific alternative action which the program proposes;

d. The reasons for the request; and

e. Assurances that sub. (2) would be satisfied.

2. A request for a waiver or variance may be made at any time.

3. The department may require additional information from the program prior to acting on the request.

(b) *Grants and denials.* 1. The department shall grant or deny in writing each request for a waiver or variance. The notice of denial shall contain reasons for the denial. If a notice of denial is not issued within 60 days after the receipt of a complete request, the waiver or variance shall be automatically approved.

2. The terms of a requested waiver or variance may be modified upon agreement between the department and a program.

3. The department may impose whatever conditions it considers necessary on the granting of a waiver or variance.

4. The department may limit the duration of any waiver or variance.

(c) *Hearings.* 1. A program may contest the denial of a requested waiver or variance by requesting a hearing under ch. 227, Stats., as provided in s. HFS 129.12.

2. The program shall sustain the burden of proving that the denial of a waiver or variance was unreasonable.

(d) *Revocation.* The department may revoke a waiver or variance if:

1. It is determined that the waiver or variance is adversely affecting the outcome of the program;

2. The program has failed to comply with the waiver or variance as granted;

3. The program notifies the department in writing that it wishes to relinquish the waiver or variance and be subject to the rule previously waived or varied; or

4. Required by a change in law.

History: Cr. Register, June, 1991, No. 426, eff. 7–1–91.

HFS 129.05 Certification procedures. (1) APPLICATION. (a) Application for certification of an instructional program for nurse assistants, home health aides or hospice aides or a competency evaluation program for nurse assistants, home health aides or hospice aides shall be made on a form provided by the department.

Note: To obtain a copy of the application form for certification of instructional programs or the application form for certification of competency evaluation programs, write to the Bureau of Quality Assurance, P.O. Box 2969, Madison, Wisconsin 53701–2969.

(b) The applicant shall provide any additional information requested by the department during its review of the application.

(c) The program shall have an individual designated as responsible for the operation of the program and responsible for compliance of the program with all applicable provisions of this chapter, and that designation shall be noted on the application for certification. When the designee changes, the program is responsible for notifying the department within 10 days after the change takes place. The program shall provide written notification to the department as soon as the identity of the permanent replacement designee is known. A program may not operate without this designated individual.

(d) All aspects of the program shall be in compliance with all applicable federal, state and local laws.

(2) ACTION BY THE DEPARTMENT. (a) *Initial review of an instructional program.* 1. Upon receiving an application for certification of an instructional program, the department shall review the program to determine the applicant's compliance with ss. HFS 129.06 and 129.07. The department shall review the applicant's program for the following:

a. Program content, length and ratio of classroom instruction to skills training;

b. Qualifications of instructors;

c. Type of clinical supervision;

d. Provision for written evaluation of the program;

e. Reasonable accommodations for students and prospective students with handicapping conditions;

f. Criteria for successful completion; and

g. Appropriate furnishing of physical facilities to meet classroom instruction and skills training needs.

2. Within 90 days after receiving an application for certification of an instructional program, the department shall either approve the application and issue a certificate of approval or deny the application. If the application for certification is denied, the department shall give the applicant reasons, in writing, for the denial and describe the process for appealing the denial.

(b) *Initial review of a competency evaluation program.* 1. Upon receiving an application for certification of a competency evaluation program, the department shall investigate the program to determine the applicant's compliance with s. HFS 129.08. The department shall review the applicant's program for the following:

a. Qualifications of the examiners;

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b. Examples of test questions from the written or oral examination and the skills demonstration examination;

c. Standards for determination of successful and unsuccessful completion of the written or oral and skills demonstration examinations;

d. Reasonable accommodations for students and prospective students with handicapping conditions;

e. Effective procedures for maintenance of the security of the written or oral and skills demonstration examinations; and

f. Provision for written evaluation of the program on an annual basis.

2. The program shall have physical facilities that are appropriately furnished, safe and otherwise adequate to meet the written and oral examination and skills demonstration needs of the program.

3. Within 90 days after receiving an application for certification of a competency evaluation program, the department shall either approve the application and issue a certificate of approval or deny the application. If the application for certification is denied, the department shall give the applicant reasons, in writing, for the denial and describe the process for appealing the denial.

(c) *Post−approval review and monitoring*. 1. The department shall conduct a post−approval review of a program within one year after the date on which the department initially approved the program. The department may conduct an on−site review of the program at that time or at any other time to verify that the program remains in compliance with this chapter.

2. The program shall submit an annual report to the department on a form provided by the department at least 30 days before expiration of the anniversary date of the approval and shall provide any additional information requested by the department during its review of the program. The program shall provide reasonable means for the department to examine records and gather requested information.

3. Any substantial change in the program shall be reported to the department in writing within 10 days after it takes place. In this subdivision, "substantial change" means any change in the program designee under s. HFS 129.05 (1) (c), any change in primary instructor under s. HFS 129.06 (1) (d), any change in the training course instructor under s. HFS 129.06 (3) (b), any change in curriculum under s. HFS 129.07 (2), any change in examiner under s. HFS 129.08 (1) (b), any change in the competency examination under s. HFS 129.08 (2) and (3) or any change in the program's site under s. HFS 129.07 (3) (a) 5. or 129.08 (4) (c).

4. If at any time the department determines that a program has failed to comply with a requirement of this chapter, it may, after providing written notice, suspend or revoke certification of the program or impose a plan of correction on the program.

History: Cr. Register, June, 1991, No. 426, eff. 7−1−91; emerg. am. (1) (a), eff. 10−1−91; am. (1) (a) and (2) (c) 4., Register, June, 1992, No. 438, eff. 7−1−92; am. (1) (a), Register, December, 1992, No. 444, eff. 1−1−93.

HFS 129.06 Standards for instructors of instructional programs. (1) PRIMARY INSTRUCTOR. (a) The primary instructor for an instructional program shall be a registered nurse licensed to practice in Wisconsin who has a minimum of 2 years of experience working as a registered nurse.

(b) The primary instructor shall provide to the program a resume documenting his or her education and clinical experience in meeting clients' psychosocial, behavioral, cognitive and physical needs, and the program shall maintain that resume on file and shall include a copy of that resume with its application for certification.

(c) The primary instructor shall attend a training course for instructors that is approved by the department under sub. (3), except that the department may waive this requirement for an instructor who has had a substantially equivalent course or substantially equivalent training or clinical experience.

(d) When the program loses a primary instructor, the program shall notify the department of the loss within 10 days after it takes place. The program shall provide written notification to the department as soon as the identity of the replacement primary instructor is known.

(2) PROGRAM TRAINER. (a) Personnel from the health care and public health fields may serve as program trainers to meet specialized instructional needs. Examples of personnel are licensed registered nurses, licensed practical nurses, pharmacists, dietitians, social workers, registered sanitarians, fire safety experts, health care administrators, gerontologists, psychologists, physical and occupational therapists, activity therapists, speech and language pathologists and audiologists.

(b) Program trainers shall have a minimum of one year of experience in the area in which they will provide training.

(c) Program trainers shall work under the general supervision of the primary instructor.

(3) TRAINING COURSE FOR PRIMARY INSTRUCTORS. Application for approval of a training course for primary instructors shall be made on a form provided by the department. The department shall review an application for approval of a training course for primary instructors and shall either approve or deny the application within 90 days after receiving it, based on compliance with the following criteria:

(a) The instructor shall be a registered nurse licensed to practice in Wisconsin who has a minimum of 2 years of experience as an instructor of nursing practice or as an instructor of nurse assistants, home health aides or hospice aides.

(b) When there is a change in the training course instructor, the program shall notify the department of the change and provide written notification to the department of the name and qualifications of the replacement training course instructor as soon as that is known;

(c) The course shall be a minimum of 16 hours in length; and

(d) The training shall cover at least the following areas:

1. The principles of adult learning, and training techniques that take these into consideration;

2. Formulating training objectives, including behavior objectives which state measurable performance criteria to provide a basis for competency evaluation;

3. Designing the curriculum to provide a logical organization of the material to be covered.

4. Developing lesson plans;

5. Choosing appropriate teaching strategies and methodologies;

6. Developing learning materials;

7. Applying methods for evaluating trainee learning;

8. Effectively supervising trainees' clinical practice;

9. Defining criteria for successful achievement of training program objectives, including development of oral and written examinations and development of methods for demonstrating skills based on behaviorally stated course objectives; and

10. Developing a recordkeeping system.

History: Cr. Register, June, 1991, No. 426, eff. 7−1−91; emerg. am. (3) (a), eff. 10−1−91; am. (3) (a), Register, June, 1992, No. 438, eff. 7−1−92.

HFS 129.07 Standards for instructional programs. (1) DEFINITIONS. In this section:

(a) "Body mechanics" means use of the muscles of the body and the skeletal system in such a way as to avoid injury or strain when assisting in the movement, positioning and transfer of a client.

(b) "Developmental tasks" means those functions normally associated with the aging process, including but not limited to acceptance of and adjustment to the psychosocial and physiological processes, transition throughout adulthood, retirement development and life review.

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(c) "Restorative services" means education and training to restore the client to the fullest possible level of functioning or to promote and maintain the client's fullest possible level of functioning and to attempt to prevent further loss of functioning.

(d) "Soft restraint" means any garment which interferes with the free movement of the client and which the client is unable to remove easily, such as a belt restraint, vest restraint or pelvic restraint.

(2) CURRICULUM. (a) *Minimum requirements.* An instructional program shall include theory and practice in at least the 6 care areas and each of their components included in this subsection.

(b) *Interpersonal communication and social interaction.* The program shall include the theory of and practice in communicating and interacting on a one−to−one basis with a client; serving as part of a team implementing client care objectives; demonstrating sensitivity to clients' emotional, social and psychological needs through directed interactions; and skills which enable expressions of age−appropriate behavior by allowing clients to make personal choices and by reinforcing behavior that supports a client's sense of dignity. A nurse's assistant, home health aide or hospice aide shall be able to:

1. Identify the components of a caregiver−client relationship and be able to:

a. Recognize the uniqueness of each client, in terms of that person's cultural, generational, social, ethnic, religious or other background, values or characteristics;

b. Recognize the needs of a client with Alzheimer's disease, dementia, mental illness or mental retardation;

c. Recognize ways that both workers and clients cope with stress;

d. Recognize what constitutes abuse; and

e. Recognize the messages conveyed by body language and facial expressions;

2. Demonstrate an ability to establish effective relationships with clients and be able to:

a. Communicate with them with respect and dignity;

b. Explain procedures and activities to them before carrying out the procedures or beginning the activities;

c. Demonstrate concern for clients who have long−term or disabling illnesses or are dying; and

d. Identify developmental tasks associated with the aging process;

3. Demonstrate an ability to use appropriate verbal and nonverbal communication skills with clients and be able to:

a. Recognize effective listening techniques;

b. Distinguish assertive from aggressive responses;

c. Identify the difference between non−acceptable and acceptable touching during job performance; and

d. Identify therapeutic interventions and specialized techniques for responding to wandering and confusion;

4. Recognize common barriers to communication, including language, vision changes, hearing loss, speech problems, memory loss and disorientation;

5. Demonstrate an ability to promote the independence of clients within the limitations of their physical, mental and intellectual impairments by fostering self−help skills through appropriate responses to clients' attempts to provide self care, including recognizing clients' level of ability in self care activities; and

6. Identify the role of the family and other persons of importance to the client in the client's care and as resources for client emotional support.

(c) *Basic nursing skills.* The program shall include the theory of and practice in basic nursing skills, including bed making, taking vital signs, measuring height and weight, caring for the client's environment, measuring fluid and nutrient intake and output, assisting in the provision of proper nutritional care, walking or transferring the client using body mechanics, and maintaining infection control and safety standards. A nurse's assistant, home health aide or hospice aide shall be able to:

1. Demonstrate acceptable personal hygiene habits;

2. Recognize the components of working relationships;

3. Identify how and when to seek guidance, using the supervisory channels of communication within the facility or agency;

4. Use proper body mechanics;

5. Demonstrate an understanding of the meaning of common medical terms and abbreviations;

6. Observe and report changes in client behavior and physical status, including recognizing abnormal signs and symptoms of common diseases and conditions;

7. Recognize the circumstances that require assistance to a client who may be choking on ingested food particles;

8. Recognize generally the normal physical and psychological changes associated with aging;

9. Identify the basic principles of nutrition and hydration;

10. Recognize and report deviations from a client's normal food and fluid intake and output;

11. Recognize the basic requirements of commonly prescribed therapeutic diets;

12. Employ common measures to promote a client's skin integrity, considering the client's ethnicity, race and age;

13. Demonstrate appropriate techniques in walking, transferring, positioning and transporting clients;

14. Recognize and respond appropriately to unsafe environmental conditions, including damp floors, frayed electrical cords and loose hand rails;

15. Recognize and respond appropriately to emergency situations, including following emergency evacuation procedures;

16. Demonstrate appropriate handwashing techniques;

17. Apply soft restraints;

18. Maintain the safety and cleanliness of client care areas, and areas where food is stored;

19. Make use of proper isolation technique;

20. Perform commonly accepted infection control practices, including proper gloving technique and proper disposal of blood and body fluids and secretions;

21. Make occupied and unoccupied beds;

22. Measure temperature, pulse and respiration;

23. Measure a client's weight and height;

24. Record objective information, such as a client's height and weight;

25. Apply nonprescription ointments to unbroken skin areas;

26. Assist with care of clients when death is imminent; and

27. Assist with post−mortem care.

(d) *Personal care skills.* The program shall include the theory of and practice in basic personal care skills, including bathing, mouth care, grooming, dressing and toileting, and assisting with eating, hydration and skin care. A nurse's assistant, home health aide or hospice aide shall demonstrate an ability to:

1. Give a complete or partial bed bath and assist clients in taking baths and showers;

2. Provide care of the perineal area;.

3. Apply appropriate oral hygiene practices when assisting clients with oral hygiene, including caring for the client's dentures;

4. Provide nail, hair and skin care;

5. Shave and shampoo clients, including applying nonprescription medicated shampoos;

6. Dress and undress clients;

7. Prepare clients for meals;

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8. Assist in feeding clients, including helping clients use adaptive devices and feeding utensils and encouraging clients to eat nutritionally balanced meals; and

9. Assist with bowel and bladder elimination.

(e) *Basic restorative services.* The program shall include the theory of and practice in providing restorative services, including the application of assistive devices for ambulation, eating and dressing; maintenance of range of motion through appropriate exercises; proper turning and positioning both in bed and chair; proper transferring techniques; bowel and bladder training; and care and use of prosthetic devices such as hearing aids, artificial eyes and artificial limbs. A nurse's assistant, home health aide or hospice aide shall demonstrate the ability to:

1. Recognize the importance of bowel and bladder programs;

2. Recognize the method for maintaining and improving musculoskeletal functioning by promoting joint mobility, body alignment and movement, including being able to:

a. Position clients by use of pillows, towel rolls, padding and footboards;

b. Perform simple range of motion exercises; and

c. Assist clients in the use of crutches, walkers, wheelchairs, canes, prostheses and appliances;

3. Transfer clients as necessary using Hoyer lifts, wheelchairs and gait belts;

4. Reinforce breathing exercises, including coughing and deep breathing; and

5. Help clients use hearing aids and glasses.

(f) *Rights of clients.* 1. The program shall cover principles and requirements relating to clients' rights.

2. The nurse's assistant, home health aide or hospice aide shall demonstrate behavior that indicates he or she recognizes at least the following obligations in relation to clients' rights:

a. To provide privacy for clients in treatment, living arrangements and caring for personal needs;

b. To maintain the confidentiality of client health and personal records;

c. To allow clients to make personal choices to accommodate their needs;

d. To provide help needed by clients in getting to and participating in activities, including client and family group meetings;

e. To maintain the personal possessions of clients in good and secure condition;

f. To care for clients in a manner that does not involve abuse or neglect; and

g. To report every instance of abuse, as defined in s. HFS 13.03 (1), or neglect, as defined in s. HFS 13.03 (14), of a client to appropriate facility staff.

3. The nurse's assistant, home health aide or hospice aide shall demonstrate behavior that recognizes that clients have rights and that the assistant or aide must respect those rights. The nurse's assistant, home health aide or hospice aide shall:

a. Demonstrate respect and concern for each client's rights and preferences and awareness of ethnic, cultural, social, generational and religious differences;

b. Show respect for cultural, ethnic and religious food preferences;

c. Recognize what constitutes abuse or neglect of clients and demonstrate an understanding of how to interact with clients to avoid behavior which can be interpreted as abuse or neglect;

d. Demonstrate prevention and intervention skills with combative clients which balance appropriate client care with a need to protect self and others;

e. Recognize the role of state and federal regulatory agencies in licensing or otherwise approving providers and in investigating complaints of abuse, neglect or misappropriation of client property;

f. Demonstrate an understanding of the process by which a client or staff member may file a grievance on behalf of a client and seek redress for a perceived violation of client rights;

g. Recognize the role of client advocacy groups as client resources; and

h. Demonstrate awareness of how to file a complaint with the department regarding operations within the provider setting.

(g) *Dementias.* The program shall include instruction about the dementias and techniques for meeting the basic needs of clients with dementia as follows:

1. The nature of dementia, including the cause, course and symptoms of the impairment;

2. The effects on the client of staff verbal and nonverbal communication with the client and means of modifying these communications and approaches to facilitate effective interaction between clients and staff;

3. The feeding and fluid intake problems associated with dementia and the specialized techniques for addressing those problems;

4. The effect of the environment on clients with dementia and the appropriate environmental stimuli to use with those clients to reduce stress and maximize normal functioning;

5. The specialized techniques for responding to client behavior such as wandering and confusion;

6. Diversional activities such as specially selected soft music and therapeutic ambulation that should be used in caring for clients with dementia; and

7. The stress involved for the client, family and nurse's assistant, home health aide or hospice aide in caring for a client with dementia and techniques for coping with this stress.

(3) PROGRAM OPERATION. (a) *Clinical setting.* The instructional program shall have all of the following:

1. Access to a clinical setting;

2. Qualified faculty members for both the classroom and skills portions of the instructional program;

3. Reasonable accommodations for students and prospective students with handicapping conditions;

4. An adequate number of clinical instructors in the clinical setting to provide safe and effective supervision and assistance; and

5. Classroom facilities that are adequate to meet the needs of the program.

(b) *Program length.* The program shall be a minimum of 75 hours in length, including at least 16 hours in a clinical setting and 16 hours of classroom instruction. Competency evaluation and provider orientation may not be counted toward meeting the 75 hour minimum.

(c) *Skills training instructor to trainee ratio.* The ratio of instructors to trainees in skills training shall be adequate to ensure that each trainee is provided safe and effective assistance and supervision.

(d) *Expectations and records.* 1. The instructional program shall maintain a list of the skills and a summary of the knowledge which a trainee is expected to have upon completion of the instructional program.

2. The primary instructor shall record the date the individual satisfactorily performs each required task or skill. Upon satisfactory completion of all required skills and competencies and attainment of the necessary knowledge, the trainee shall be allowed to take a written or oral competency evaluation examination and a skills competency demonstration examination.

3. The primary instructor shall provide a copy of the trainee's performance record to the trainee.

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(e) *Record retention.* All records required by this section shall be retained for a period of at least 3 years.

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HFS 129.08 Standards for competency evaluation programs. (1) EXAMINER QUALIFICATIONS. (a) The examiner conducting the clinical competency evaluation of a trainee shall meet the qualifications for the primary instructor under s. HFS 129.06 (1).

(b) When the program loses an examiner, the program shall notify the department of the loss and provide written notification to the department of the name and qualifications of the replacement examiner as soon as that is known.

(2) WRITTEN OR ORAL EVALUATION COMPONENT. (a) The competency evaluation program shall develop a pool of test questions which address all 6 content areas and their components under s. HFS 129.07 (2). The pool of test questions shall include at least 3 complete and different examinations. All questions within a content area shall be selected on a random basis.

(b) 1. The competency evaluation program shall develop written and oral examinations from the pool of test questions. The content of the written and oral examinations shall reflect the content and emphasis of the instructional program completed by the individual to ensure that the individual has successfully completed the instructional program and the test is relevant to the instructional program. The examiner shall review the instructional program performance record of the individuals.

2. The written and oral examinations shall be given in English, except that if a nurse's assistant, home health aide or hospice aide will be working in a provider setting in which the predominant language is other than English, the examination for that person may be given in the predominant language used in the facility.

(c) The competency evaluation program may develop an oral examination for nurse assistants, home health aides and hospice aides who have limited literacy skills. The oral examination shall cover the same subject areas that are included in the original written examination adapted for oral testing, and shall include a component to determine the assistant's or aide's ability to read basic, objective job–related information, such as reading a client's name band or a client's flow sheet.

(d) A total of at least 25 written or oral questions shall be asked. The questions shall cover at least the 6 content areas under s. HFS 129.07 (2) and shall be selected randomly from at least 3 possible selections. The questions shall be in the following areas:

1. Interpersonal communication and social interaction, 4 questions;

2. Basic nursing skills, 7 questions, of which 5 shall address:

a. Observation, reporting and documentation of changes in client status and services furnished;

b. Recognizing and reporting change of client condition and status to supervisor;

c. Knowledge of emergency procedures;

d. Knowledge of infection control procedures; and

e. Maintenance of a clean, safe and healthy environment;

3. Personal care skills, 1 question;

4. Basic restorative services, 3 questions;

5. Client rights, 5 questions, of which 3 shall address:

a. Right to respect;

b. Right to privacy and confidentiality; and

c. Right to maintain personal property; and

6. Dementias, 5 questions.

(e) The criteria for successful completion of the competency evaluation program shall include satisfactory scores on the items under subds. 2. and 5.

(3) DEMONSTRATION COMPONENT. (a) The competency evaluation program shall develop a pool of skill demonstration exercises. There shall be a sufficient number of skill demonstration exercises for at least 3 complete and different skills demonstration examinations to evaluate the individual's ability to perform the required job tasks. The skills and competencies listed in the curriculum shall meet the definition of a task. Tasks shall be randomly selected from the pool of skills to be demonstrated. An examination shall include a minimum of 13 specific tasks in the core curriculum areas of basic nursing skills, personal care skills and basic restorative services. The core areas of interpersonal communication and social interaction shall be integrated throughout the skills demonstration evaluation. The skill demonstration exercises shall address at least the following areas:

1. Interpersonal communication and social interaction. Skills, competencies and knowledges addressed in this core curriculum area shall be integrated into the content of the skills demonstration. A minimum of 3 tasks taken from this core area shall be evaluated during the skills demonstration;

2. Basic nursing skills. Skill demonstration exercises shall include the reading and recording of temperature, pulse and respiration;

3. Personal care skills. Skill demonstration exercises shall include:

a. Bed bath;

b. Sponge or tub bath or shower;

c. Shampoo;

d. Nail care;

e. Skin care;

f. Oral hygiene;

g. Toileting and elimination;

h. Dressing;

i. Eating and feeding–techniques; and

j. Hydration; and

4. Basic restorative services. Skill demonstration exercises shall include:

a. Ambulation;

b. Positioning;

c. Range of motion exercises; and

d. Transferring.

(b) The criteria for successful completion of a competency evaluation program shall include satisfactory scores in the exercises under par. (a) 2., 3. and 4.

(c) The examiner shall prepare objective criteria for measuring successful completion of each task. The criteria shall be prepared in advance of administration of a skills demonstration examination. Upon completion of the examination, the examiner shall discuss with the trainee the trainee's performance of each task in relationship to the criteria.

(4) PROGRAM OPERATION. The competency evaluation program shall maintain the following standards in operating the program:

(a) Reasonable accommodations for students and prospective students with handicapping conditions;

(b) An adequate number of examiners to provide safe and effective supervision and assistance;

(c) Classroom facilities that are adequate to meet the needs of the testing program; and

(d) Retention of all records required under this section for a period of at least 3 years.

Removed by Register December 2003 No. 576. For current adm. code see: http://docs.legis.wisconsin.gov/code/admin_code.

(5) REPEATING THE EXAMINATION. If an individual fails to pass a competency evaluation examination, the individual may repeat the examination until he or she successfully completes it. If the individual passes the written component and fails the demonstration component, only the demonstration component need be repeated. If the individual passes the demonstration component and fails the written component, only the written component need be repeated. A repeat examination shall differ in content from the examination previously taken by the individual.

History: Cr. Register, June, 1991, No. 426, eff. 7−1−91; emerg. am. (2) (b) 2. and (c), eff. 10−1−91; am. (2) (b) 2. and (c), r. and recr. (3) (a) 4., Register, June, 1992, No. 438, eff. 7−1−92.

HFS 129.09 Retroactive approval of comparable programs. (1) APPLICATION. (a) The department may approve retroactively an instructional and competency testing program or a competency testing program that is substantially the same as an instructional and competency evaluation program or a competency evaluation program certified by the department under s. HFS 129.05.

(b) Application for retroactive approval of a comparable instructional and competency testing program or a competency testing program shall be made on a form provided by the department.

Note: To obtain a copy of the application for approval of a comparable program, write Bureau of Quality Assurance, P.O. Box 2969, Madison, Wisconsin 53701−2969.

(c) The applicant shall provide any additional information requested by the department during its review of the application.

(2) ACTION BY THE DEPARTMENT. (a) Upon receiving an application for retroactive approval of a comparable instructional and competency testing program or a competency testing program, the department shall review the applicant's program for the following:

1. For an instructional and competency testing program, classroom and clinical setting instruction to total a 75−hour curriculum;

2. For an instructional and competency testing program, curriculum content that includes basic nursing skills, personal care skills, basic restorative services, interpersonal communication and social interaction, and client rights;

3. An instructor or examiner who is a registered nurse;

4. An evaluation process which includes a written or oral testing component and a skills demonstration component along with criteria for successful completion of the program; and

5. Adequate physical facilities and equipment available for use by the program.

(b) Within 90 days after receiving an application for approval of a comparable instructional and competency testing program or a competency evaluation program, the department shall either approve the application or deny the application. If the application for approval is denied, the department shall give the applicant reasons, in writing, for the denial and describe the process for appealing the denial.

(c) An instructional and competency testing program or a competency testing program is eligible to be considered for approval as a comparable instructional and competency evaluation program or a competency evaluation program if the program was in operation prior to October 1, 1990.

History: Cr. Register, June, 1991, No. 426, eff. 7−1−91.

HFS 129.10 Registry. (1) ESTABLISHMENT AND MAINTENANCE. (a) The department shall establish and maintain a registry of persons who have satisfactorily completed a nurse's assistant, home health aide or hospice aide instructional program and competency evaluation program or only a competency evaluation program, or who otherwise meet the requirements of or are exempt under s. 146.40 (2), Stats., and request inclusion in the registry.

(b) If an individual has satisfactorily completed in another state a nurse's assistant, home health aide or hospice aide instructional program and competency evaluation program, or only a competency evaluation program, which meets federal requirements for the program and which provides training and evaluation equivalent to Wisconsin's program, that individual shall be eligible for listing in the registry under par. (a).

Note: The registry under this chapter is the list of qualified caregivers required under s. 146.40 (4g) (a) 1., Stats. It is one of 2 parts of the Department's caregiver registry required under s. 146.40 (4g), Stats. See ch. HFS 13 for the other part, the list of caregivers who have been found to have abused or neglected a client or misappropriated a client's property.

(2) CONTENT OF REGISTRY. Information in the registry shall include the registrant's:

(a) Eligibility for employment in a department−approved hospital or a department−licensed nursing home or facility for the developmentally disabled, or with a department−licensed home health agency or a hospice certified under 42 USC 1395 to 1395ccc;

(b) Social security number;

(c) Full name, including middle initial;

(d) Mailing address;

(e) Date of birth;

(f) Date of completion of instructional program, if applicable;

(g) Date of completion of competency evaluation program, if applicable;

(h) Competency evaluation program number, if applicable; and

(i) Date of completion of program approved under s. HFS 129.09, if applicable.

(3) NOTIFICATION OR APPLICATION. (a) The examiner of a competency evaluation program shall notify the department when an individual has satisfactorily completed the program. The notification shall be in writing on a form provided by the department and shall be submitted to the department within 30 days after the individual satisfactorily completes the program.

(b) A person who is eligible under sub. (1) for inclusion in the registry but for whom notification is not required under par. (a), or a hospital, nursing home, facility for the developmentally disabled, home health agency or hospice on behalf of that person, may apply to the department to include that person in the registry. Application shall be made on a form provided by the department.

Note: To obtain a copy of the notification/application form for adding a nurse's assistant, home health aide or hospice aide to the registry, write to the Bureau of Quality Assurance, P.O. Box 2969, Madison, Wisconsin 53701−2969.

(4) ACTION BY THE DEPARTMENT. (a) Upon receiving an application under sub. (3) (b) to list a person in the registry, the department shall review the application and make whatever inquiries are necessary to determine if the person is eligible to be included in the registry.

(b) Within 30 days after receiving an application, the department shall either approve the application and include the person in the registry or deny the application. If the application for inclusion is denied the department shall give the person, or the facility or agency that submitted the application on behalf of that person, reasons, in writing, for the denial.

(5) RELEASE OF REGISTRY INFORMATION. With the exception of sub. (2) (b), and to the extent permitted by state and federal law, the information included in the registry about individuals is public information. The department shall respond promptly to inquiries concerning registry information. A request for registry information shall be in writing and accompanied by a self−addressed stamped envelope.

Note: Send a request for registry information to: Bureau of Quality Assurance, P.O. Box 2969, Madison, Wisconsin 53701−2969.

History: Cr. Register, June, 1991, No. 426, eff. 7−1−91; emerg. am. (1) (a) and (b), (2) (a) and (j), (3) (b) and (5), eff. 10−1−91, am. (1), (2) (a), (j), (3) (b) and (5), Register, June, 1992, No. 438, eff. 7−1−92; renum. (2) (intro.) and (a) to (j) to be (2) (a) (intro.) and 1. to 9. and (b) and am. (2) (a) 8., 9. and (b), Register, December, 1992,

Removed by Register December 2003 No. 576. For current adm. code see: http://docs.legis.wisconsin.gov/code/admin_code.

No. 444, eff. 1−1−93; **emerg. r. (2) (b), r. and recr. (5), eff. 10−1−98; renum. (2) (a) to be (2), r. (2) (b), r. and recr. (5), Register, June, 1999, No. 522, eff. 7−1−99**.

HFS 129.11 Complaints of abuse or misappropriation of property.
History: Cr. Register, December, 1992, No. 444, eff. 1−1−93, **emerg. r. eff. 10−1−98; r. Register, June, 1999, No. 522, eff. 7−1−99.**

HFS 129.12 Appeals. (1) An aggrieved party may appeal to the department of administration's division of hearings and appeals any of the following:

(a) A denial of a request for a waiver or variance under s. HFS 129.04 (3) (b) or the revocation of a waiver or variance under s. HFS 129.04 (3) (d);

(b) A denial of an application for certification of an instructional program under s. HFS 129.05 (2) (a) 2;

(c) A denial of an application for certification of a competency evaluation program under s. HFS 129.05 (2) (b) 3;

(d) A denial of an application under s. HFS 129.06 (3) for approval of a training course for primary instructors;

(e) A denial of an application under s. HFS 129.09 (2) (b) for approval of a comparable program; or

(f) A denial under s. HFS 129.10 (4) (b) of an application to include a person in the registry.

(2) An appeal shall be in writing and shall take the form of a request for a hearing. The request for a hearing shall be filed with the department of administration's division of hearings and appeals no later than 30 days after the date of the denial, suspension or revocation, and is considered filed when received by the division of hearings and appeals.

Note: The address of the Division of Hearings and Appeals is P.O. Box 7875, Madison, Wisconsin 53707. Appeals may be delivered in person to that office at 5005 University Avenue, Room 201, Madison, Wisconsin.

Note: As provided in s. 146.40 (4m), Stats., an aggrieved party wanting to appeal a suspension or revocation of certification or the imposition of a plan of correction under s. HFS 129.05 (2) (c) 4. should ask the department of administration's division of hearings and appeals in writing for a hearing. The address of the Department of Administration's Division of Hearings and Appeals is 5005 University Avenue, Suite 201, Madison, Wisconsin 53705−5400.

History: Cr. Register, June, 1991, No. 426, eff. 7−1−91; r. (1) (c) and (e), renum. (1) (d) and (f) to (h) to be (1) (c) to (f), Register, June, 1992, No. 438, eff. 7−1−92; renum. from HSS 129.11, Register, December, 1992, No. 444, eff. 1−1−93; **emerg. am. (2), eff. 10−1−98; am. (2), Register, June, 1999, No. 522, eff. 7−1−99**.