

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.

(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.

(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.

(b) Allegations of violations of such rights by persons licensed, certified or registered under chs. 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, 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 chs. 441, 446 to 450, 455 and 456 of the statutes may also report such allegations to the board.

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

(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.

(5) Community Organization Access Requirements. (a) In this subsection, "access" means the right to:

1. Enter any facility.
2. Seek a resident's agreement to communicate privately and without restriction with the resident.
3. Communicate privately and without restriction with any resident who does not object to communication.
4. Inspect the health care and other records of a resident with the informed consent of the resident.

Note: "Access" does not include the right to examine the business records of the facility without the consent of the administrator or designee.

(b) In this subsection, "informed consent," as defined in s. 146.81 (3), Stats., means written consent to the disclosure of information from patient health care records to an individual, agency or organization containing the name of the patient whose record is being disclosed, the pur-

pose of the disclosure, the type of information to be disclosed, the individual, agency or organization to which disclosure may be made, the types of health care providers making the disclosure, the signature of the patient or the person authorized by the patient, the date on which the consent is signed and the time period during which the consent is effective.

(c) In this subsection, "person authorized by the patient," as defined in s. 146.81 (5), Stats., means the parent, guardian or legal custodian of a minor patient, as defined in s. 48.02 (9) and (11), Stats., the guardian of a patient adjudged incompetent, as defined in s. 880.01 (3) and (4), Stats., the personal representative or spouse of a deceased patient or any person authorized in writing by the patient. If no spouse survives a deceased patient, "person authorized by the patient" also means an adult member of the deceased patient's immediate family, as defined in s. 632.78 (3) (d), Stats. A court may appoint a temporary guardian for a patient believed incompetent to consent to the release of records under s. 146.81 as the person authorized by the patient to decide upon the release of records, if no guardian has been appointed for the patient.

(d) Any employee, agent or designated representative of a community legal services program or community service organization shall be permitted access to any facility between 8:00 a.m. and 9:00 p.m., provided the employee, agent or designated representative can, upon request, present valid identification signed by the principal officer of the agency, program or organization represented, and provided an express purpose of the agency, program or organization and the purpose of the visit is to do any of the following:

1. Visit, talk with, offer personal, social and legal services to any resident, or obtain information from the resident on the facility and its operation.
2. Inform residents of their rights and entitlements and their corresponding obligations under federal and state law, by means of educational materials and discussions in groups or with individual residents.
3. Assist any resident in asserting legal rights regarding claims for public assistance, medical assistance and social security benefits, and in all other matters in which a resident may be aggrieved.

Note: Assistance may be provided on an individual or group basis, and may include organizational activity, counseling and litigative assistance.

4. Engage in any other method of advising and representing residents so as to assure them full enjoyment of their rights.

Note: "Express purpose" of the agency, program or organization shall be in written form and shall be made available to the nursing home administrator or designee upon request.

History: Cr. Register, February, 1977, No. 254, eff. 3-1-77; cr. (5), Register, September, 1980, No. 297, eff. 10-1-80.

H 32.06 Patient care policies. There shall be policies to govern nursing care and related medical or other services provided. A physician, a registered professional nurse or the medical staff as delegated by the administrator shall be responsible for the execution of these policies.

- (1) The nursing home shall have written policies which shall be developed with the advice of a group of professional personnel, including at least one or more physicians and one or more registered professional

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nurses, to govern the nursing care and related medical or other services it provides. Policies shall reflect awareness of and provision for meeting the total needs of patients, and staff members shall be familiar with them. These shall be reviewed at least annually, in no way shall conflict with the department rules and shall cover at least the following:

- (a) Physician services
- (b) Nursing services
- (c) Dietary services
- (d) Restorative services
- (e) Pharmaceutical services
- (f) Diagnostic services
- (g) Care of patients in an emergency, during a communicable disease episode and when critically ill or mentally disturbed
- (h) Dental services
- (i) Social services
- (j) Patient activities
- (k) Clinical records
- (l) Transfer agreement
- (m) Disaster plan
- (n) Admission, transfer and discharge policies including categories of patients accepted and not accepted
- (o) Resident's rights

(2) All patients shall be admitted only on the order of a physician.

(3) Maternity patients, transients and persons having or suspected of having a communicable disease endangering other patients shall not be admitted or retained in a nursing home except where certified by the department. Where patients under 18 years of age are to be admitted, a request for admission shall be made to the state health officer, carefully outlining the regime of care and providing appropriate administrative approvals.

(4) A nursing home shall not accept or keep patients who are destructive of property or themselves, who continually disturb others, who are physically or mentally abusive to others or who show any suicidal tendencies, unless the nursing home can demonstrate to the satisfaction of the department that it possesses and utilizes the appropriate physical and professional resources to manage and care for such patients in a way that does not jeopardize the health, safety, and welfare of such patients themselves or of other patients in the nursing home. (See ss. H 32.10 (4), 32.19 (1), 32.27 (1) (h) 8., 32.27 (1) (h) 22., 32.27 (1) (h) 23., 32.27 (1) (h) 24., 32.27 (5) (g), 32.29 (16) (d), and 32.30 (17) (d), Wis. Adm. Code)

(5) Persons having a primary diagnosis of mental retardation or mental deficiency shall be admitted only on order of a physician and the recommendations of a qualified mental retardation professional, using the assistance of the guidelines in Appendix "A" and/or the criteria contained in the guidelines for nursing needs form #340. The nursing home administrator shall provide a written program for those patients having a primary diagnosis of mental retardation or mental deficiency, and shall be reviewed by the department. This program shall be a statement of specific services and staff personnel assignments to accomplish and justify the goals to be attained by the