

CR 90-68

CERTIFICATE

STATE OF WISCONSIN)
) SS
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

I, Patricia A. Goodrich, Secretary of the Department of Health and Social Services and custodian of the official records of the Department, do hereby certify that the annexed rules relating to nursing homes were duly approved and adopted by this Department on October 15, 1990.

I further certify that this copy has been compared by me with the original on file in the Department and that this copy is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the State Office Building, 1 W. Wilson Street, in the city of Madison, this 15th day of October 1990.

SEAL:



Patricia A. Goodrich, Secretary
Department of Health and Social Services

RECEIVED
OCT 15 1990
1:00 pm
Revisor of Statutes
Bureau

12-1-90

ORDER OF THE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
CREATING RULES

RECEIVED
OCT 15 1990
Revisor of Statutes
Bureau

To create HSS 132.60(8)(d), relating to nursing homes.

Analysis Prepared by the Department of Health and Social Services

The Department's rules for nursing homes, ch. HSS 132, are revised by this order to implement requirements added to ch. 49, Stats., by 1989 Wisconsin Act 31.

Specifically, the order creates s. HSS 132.60(8)(d) which specifies an instrument for use in performing assessments of nursing home residents.

The Department's authority to create these rules is found in s. 49.498(14)(b), Stats., as created by 1989 Wisconsin Act 31. These rules interpret s. 49.498(2)(c) and (14)(b), Stats., as created by 1989 Wisconsin Act 31.

SECTION 1. HSS 132.60(8)(d) is created to read:

HSS 132.60(8)(d) Assessment instrument. A resident's care plan shall be developed based on the facility's assessment required under s. 49.498(2)(c), Stats., of the resident. The assessment shall be conducted by the facility using a form approved by the department which is based on a minimum data set specified under 42 USC 1395i-3(f)(6)(A). The form shall cover resident identifying information; background information about the resident, including current payment sources, responsible party if not the resident, including any advance directives; the resident's diagnosis, condition and body control, cognitive patterns, hearing, vision, dental status, need for help to perform activities of daily living, continence, recent rehabilitation, skin condition, psychological well-being, mood and behavior patterns, activities, medications use, and any special treatment or procedures the person is receiving such as chemotherapy.

Note: For copies of the resident assessment form, write to the Bureau of Quality Compliance, Division of Health, P.O. Box 309, Madison, WI 53701.

The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

Wisconsin Department of Health and
Social Services

Dated: October 15, 1990

By: Patricia A. Goodrich

Patricia A. Goodrich
Secretary

SEAL:

rev10/10/90

RECEIVED
OCT 15 1990
Revisor of Statutes
Bureau



State of Wisconsin \

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
1 West Wilson Street, Madison, Wisconsin 53702

Tommy G. Thompson
Governor

Patricia A. Goodrich
Secretary

October 15, 1990

Mailing Address:
Post Office Box 7850
Madison, WI 53707

Mr. Bruce E. Munson
Revisor of Statutes
119 Martin Luther King, Jr., Blvd., 2nd Floor
Madison, WI 53702

RECEIVED

OCT 15 1990

Revisor of Statutes
Bureau

Dear Mr. Munson:

As provided in s. 227.20, Stats., there is hereby submitted a certified copy of HSS 132.60(8)(d), administrative rules relating to nursing homes.

These rules are also being submitted to the Secretary of State as provided in s. 227.20, Stats.

Sincerely,

Patricia A. Goodrich
Secretary

Enclosure

PROPOSED ADMINISTRATIVE RULES- HSS 132.53(6)
AND HSS 132.60(8)(d)
ANALYSIS FOR LEGISLATIVE STANDING COMMITTEE
PURSUANT TO S.227.19(3), STATS.

COPY
REVIEWED
BY
STANDING
COMMITTEES

Need for Rules

The Department's rules for nursing homes, ch. HSS 132, are being revised in order to implement requirements added to chs. 49 and 50, Stats., by 1989 Wisconsin Act 31.

Specifically, the proposed order creates s. HSS 132.53(6) which establishes a mechanism for appeal of a decision to transfer or discharge a resident from a nursing home, and also creates s. HSS 132.60(8)(d) which specifies an instrument for use in performing assessments of nursing home residents.

Responses to Clearinghouse Recommendations

All comments of the Legislative Council Rules Clearinghouse were accepted, except the following:

1. CR RECOMMENDATION 5b. For improved readability, it is suggested s. HSS 132.53(6)(b) 3 be rewritten as follows:

The facility shall provide written justification to the bureau of quality compliance district office for the transfer or discharge of a resident from the facility within 5 days after receiving a copy of the resident's written appeal.

DEPARTMENT RESPONSE. No change. It is better as it is in the the context of the other subdivisions in par. (b).

2. CR RECOMMENDATION 5d. Section HSS 132.60(8)(d) states that a resident's care plan is to be developed based on assessments conducted by the nursing home using a form specified by the department which is based on a minimum data set specified by the federal Health Care Financing Administration (HCFA). This provision does not appear to meet the statutory requirement, in s.49.498(14)(b), Stats., that the Department promulgate rules specifying an instrument for use in performing assessments of nursing home residents. Merely stating that the assessment will be conducted using a form specified by the Department which is based on certain federal data does not meet the requirement to specify the instrument to be used. The rule language should be rewritten to identify the elements to be included in the assessments and to describe the form to be used in conducting the

7 days after receiving a notice of removal from the facility, with a copy to the facility administrator, asking for a review of the decision.

2. The resident's written appeal shall indicate why the removal should not take place.

3. Within 5 days after receiving a copy of the resident's written appeal, the facility shall provide written justification to the bureau of quality compliance for the transfer or discharge of the resident from the facility.

4. If the resident files a written appeal within 7 days after receiving notice of removal from the facility, the resident may not be removed from the facility until the bureau of quality compliance has completed its review of the decision and notified both the resident and the facility of its decision.

5. The bureau of quality compliance shall complete its review of the facility's decision and notify both the resident and the facility of its decision within 14 days after receiving written justification for the transfer or discharge of the resident from the facility.

6. A resident or a facility may appeal the bureau of quality compliance decision by requesting a hearing as provided in ch. 227, Stats.

7. The appeal procedures in this paragraph do not apply if the continued presence of the resident poses a danger to the health, safety, or welfare of the resident or other residents.

being modified at request of a standing committee

SECTION 2. HSS 132.60(8)(d) is created to read:

HSS 132.60(8)(d) Assessment instrument. A resident's care plan shall be developed based on the facility's assessment required under s.49.498(2)(c), Stats., of the resident. The assessment shall be conducted by the facility using a form approved by the department which is based on a minimum data set specified under 42 USC 1395i-3(f)(6)(A). The form shall cover resident identifying information; background information about the resident, including current payment sources, responsible party if not the resident, and any advance directives; the resident's diagnosis, condition and body control, cognitive patterns, hearing, vision, dental status, need for help to perform activities of daily living, continence, recent use of appliances, devices or programs, potential for rehabilitation, skin condition, psychological well-being, mood and behavior patterns, activities, medications use, and any special treatment or procedures the person is receiving such as chemotherapy.