ORDER OF
THE DEPARTMENT OF HEALTH AND FAMILY SERVICES
REPEALING, RENUMBERING, RENUMBERING AND AMENDING, AMENDING, REPEALING AND RECREATING, AND CREATING RULES

The Wisconsin Department of Health and Family Services proposes an order to **repeal** HFS 132.45 (5) (g), 132.52 (5) and (6), 132.60 (5) (a) 3. and (c), 132.63 (6) (c) and (7) (a) 4., 132.65 (3) (a) and (6) (c) 3., 132.69 (2) (a) 1. a., 132.83 (5) (b), (c) and (d), 134.60 (4) (a) 2. and 3. and (c), 134.64 (6) (c) and (7) (a) 4., 134.67 (4) (b) and (5) (c) 3., 134.83 (4) (a) and 134.83 (5) (b), (c) and (d); **to renumber** HFS 132.44 (1) (c), 132.82 (6) and 134.82 (3) and (4); **to renumber and amend** HFS 132.65 (3) (b) 1. and 2.; to **amend** HFS 132.13 (2) and (5), 132.31 (1) (k), 132.32 (1) (b), 132.42 (3) and (4), 132.45 (4) (g) 2. and (5) (e), 132.51 (2) (c), 132.52 (2) (c) and (4), 132.60 (5) (a) 1. and 2., 132.62 (2) (a) 1., 132.63 (1), 132.65 (2) and (5) (d), 132.83 (4) and (7) (a) 2., 132.84 (6) (d) 12.; 134.12 (1), 134.13 (4), 134.13 (5), (10) and (13), 134.14 (2) (a) 1., 132.41 (2) (b), 134.47 (3) (g) 5. (note) and (h) 1., 134.51 (1) (d), 134.60 (4) (d) 2. and (5) (b) 1., 134.81 (2) (a) and (b), 134.83 (4), 134.83 (8) (a) 2. and 134.84 (5) (c) 12.; **to repeal and recreate** HFS 132.13 (1), 132.45 (3) and (5) (d), 132.51 (2) (b), 132.62 (3) (a), 132.63 (2), 132.68 (3) and (4), 132.82 (1) to (5) and table 132.82, 132.84 (3) and (4), 134.13 (1), (2) and (3), 134.44 (5) and (6), 134.51 (1) (c), 134.52 (2) (d), 134.67 (2) and 134.82 (1); and **to create** HFS 132.13 (1m), (2m), (8r) and (13m), 132.46, 132.60 (1) (c) 5.; 132.66 (1) (d), 134.13 (4m) and 134.13 (23m), relating to nursing homes and facilities for the developmentally disabled.

Statutes interpreted

Sections 50.02 and 50.03, Stats.

Statutory authority

Sections 50.02 (2) (a), Stats.

Explanation of agency authority

Section 50.02 (2) (a) gives the Department the authority to establish and enforce regulations and standards for the care, treatment, health, safety, rights, welfare and comfort of residents in nursing homes, including facilities for the developmentally disabled, and for the construction, general hygiene, maintenance and operation of those facilities which, in the light of advancing knowledge, will promote safe and adequate accommodation, care and treatment of residents in those facilities. It also authorizes the Department to promulgate and enforce rules consistent with section 50.02, Stats. Chapters HFS 132, relating to nursing homes, and HFS 134, relating to facilities serving people with developmental disabilities, provide conditions for licensure for these facilities, and is intended to protect and promote the health, safety and well-being of residents of these facilities.

Related statute or rule

The following statutes and rules relate to chapters HFS 132 and 134:

- Chapter 50, Stats., provides conditions of licensure for nursing homes and facilities serving people with developmental disabilities.
- Chapter 51, Stats., relates to conditions and provisions of services for people in need of long-term care.
- Chapter 55, Stats., establishes and assures the availability of protective services for those in need of such services.

- Chapter 146, Stats., relates to health care record requirements.
- Chapter 155, Stats., provides the power of attorney for health care requirements for people unable to make their own health care decisions.
- Chapters HFS 12 protects long-term care facility residents by requiring uniform caregiver background check, and investigation of caregiver misconduct.
- Chapter HFS 13 protects long-term care facility residents by establishing a process for reporting allegations of resident abuse or neglect.
- Chapter 94 implements s. 51.61, Stats., and covers the rights of residents in long-term care facilities.

Plain language analysis

This proposed rulemaking order contains a variety of revisions to ch. HFS 132, relating to the licensure and regulation of nursing homes and ch. HFS 134, relating to the licensure and regulation of facilities serving people with developmental disabilities. Both of these chapters have not been substantially revised for over 10 years. These administrative rule chapters have many similar requirements and both are administered by the Department's Bureau of Quality Assurance. Given the similarity of provisions in both chapters, the Department proposes to promulgate these rule modifications through a single "long-term care" facility rulemaking order.

The Department is proposing these changes for several general reasons. First, the Department wants to modify some errors and ambiguities in the existing rules that have little or no substantive effect on entities regulated under these chapters. Second, it wants to eliminate rules that have become outdated due to changes in federal regulations or related state or federal laws. Third, some existing policies in these rules need to be updated to recognize changes in service delivery and technology. For example, the proposed language for the "Resident and Staff Communication" section replaces the prescriptive requirements of the conventional hard-wired nurse call system. The new language incorporates a generic allowance to provide a means for residents to communicate with facility staff that can be activated from the residents' rooms. The Department will also be encouraging nursing facilities to adopt modern design and new program concepts by proposing to eliminate the requirement for a centralized nurse station. Another example is the Department's proposal for new standards for pain management issues. Currently, no federal regulations specifically address pain management issues. Adopting rules that reflect and expand on current knowledge in this area will facilitate a nursing home's ability to better meet the needs of its residents. Fourth, the Department wants to eliminate overly prescriptive rules where possible. Finally, the Department is striving to make the rules more reflective of and compatible with comparable federal regulations.

Specifically, the Department is proposing these rule changes for the following purposes:

- HFS 132.13 (1) in section 1 and HFS 134.13 (1) in section 44 to update the definition for "abuse;"
- HFS 132.13 (1m) in section 2 and HFS 134.13 (4m) in section 46 to create a definition for "advanced practice nurse prescriber;"
- HFS 132. 13 (2) in section 3 and HFS 134.13 (5) in section 47 to update the definition for "ambulatory;"
- HFS 132.13 (2m) in section 4 to define the term "authorized prescriber;"
- HFS 132.13 (5) in section 5 and HFS 134.13 (10) in section 47 to update the definition for "dietitian;"
- HFS 132.13 (8r) in section 6 to create a definition for "intensive skilled nursing care;"

- HFS 132.13 (13m) in section 6 and HFS 134.13 (23m) in section 48 to create a definition for "neglect;"
- HFS 132.31 (1) (k) in section 7 to update the provisions with current terminology and to reflect federal regulatory language and research that has shown that restraints can be more harmful than helpful;
- HFS 132.32 (1) (b) in section 8 to correct a grammatical error;
- HFS 132.42 (3) and (4) in section 9, HFS 132.51 (2) (b) in section 17, HFS 134.44 (5) and (6) in section 53, HFS 134.51 (1) (d) in section 55 and HFS 134.51 (1) (c) 2. in section 57 to update requirements relating to communicable disease, become compliant with the Americans with Disabilities Act and prevent discrimination, and eliminate the requirement that persons suspected of having a disease in a communicable state be managed substantially according to "Guidelines for Isolation Precautions in Hospitals and Guidelines for Infection Control in Hospital Personnel", July 1983, published by the U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control;
- HFS 132.44 (1) (c) in section 9 to renumber a provision;
- HFS 132.45 (3) in section 10 to modify the subsection to make it more outcome-oriented because the state personnel requirements are more prescriptive than the federal requirements and those provisions were waived in BQC Memo #90-077;
- HFS 132.45 (4) (g) 2. a.and b. in section 11 and HFS 134.47 (3) (h) 1. in section 53 are amended to incorporate and reflect the increasing use of computerized record-keeping;
- HFS 132.45 (5) (d) in section 13 to modify the required contents of social service records;
- HFS 132.45 (5) (e) in section 14 to amend the provision to be compatible with the repeal of the requirement related to activity records in HFS 132.52 (6) in section 20;
- HFS 132.45 (5) (g) in section 15 to eliminate the requirement that a record of dietary assessment be made because the Department waived the documentation requirements in BQC Memo #90-077, and to eliminate redundancy because these requirements are already broadly covered in HFS 132.60 (8), related to resident care planning;
- HFS 132.46 in section 16 is created to establish the requirement for facilities to establish and maintain quality assessment and assurance committees;
- HFS 132.51 (2) (c) in section 18 and HFS 134.51 (1) (d) in section 56 to define the term "abusive" in the context of paragraphs (c) and (d);
- HFS 132.52 (2) (c) in section 19 and HFS 134.52 (2) (d) in section 57 to clarify who has authority to certify a person's health status and to update the language to prevent facility discrimination against residents with infections, if the facility can safely manage the resident's infection;
- HFS 132.52 (4) in section 19 to clarify that an initial plan of care must be based on an initial assessment of the resident;
- HFS 132.52 (5) and (6) in section 20 to repeal the requirements for content and timing of specific assessments that have been superseded by federal regulatory requirements;
- HFS 132.60 (1) (c) (5) in section 21 to create provisions for pain management that reflect current practice in nursing home care;
- HFS 132.60 (5) (a) 1. and 2. in section 22 to broaden the recognition of who is authorized to prescribe medications, treatments and rehabilitative therapies.
- HFS 132.60 (5) (a) 3. and (c) in section 23 to repeal provisions that are more prescriptive than the federal regulations, which are silent on these issues pertaining to resident assessments;
- HFS 132.60 (5) (d) 2. in section 24 and HFS 134.60 (4) (d) 2. in section 59 to amend the code language because the existing language is more prescriptive than the federal regulatory requirements and has been waived per BQC-Memo #90-077;
- HFS 132.60 (6) (b) in section 25 and HFS 134.60 (5) (b) 1. in section 59 to update the provisions to reflect federal regulatory language and to reflect recent research that has shown that restraints can be more harmful than helpful;

- HFS 132.62 (2) (a) 1. in section 25 to amend and update the rule because it is more restrictive than the federal requirements which do not restrict the Director of Nursing to the day shift;
- HFS 132.62 (3) (a) in section 26 to change the nurse staffing requirements for various levels of resident care;
- HFS 132.63 (1) in section 27 to make the make the requirements pertaining to dietary services more outcome-oriented;
- HFS 132.63 (2) in section 28 to amend the administrative code's personnel requirements that have been waived in BQC Memo #90-077 because the rules are stricter than the federal regulations;
- HFS 132.63 (6) (c) and (7) (a) 4. in section 29 and HFS 134.64 (6) (c) and (7) (a) 4. in section 60 to repeal unnecessary language that is more restrictive than the federal requirements;
- HFS 132.65 (2) in section 31 and HFS 134.67 (2) in section 61 to establish an outcome-oriented standard that focuses on the goal of meeting residents' medication needs;
- HFS 132.65 (3) (a) in section 31 to eliminate the requirement that facilities maintain a pharmaceutical services committee;
- HFS 132.65 (3) (b) 1. and 2. in section 32 and HFS 132.65 (5) (d) in section 33 to change reference from the facility's pharmaceutical services committee to the facility's quality assessment and assurance committee;
- HFS 132.65 (6) (c) 3. in section 34 and HFS 134.67 (5) (c) 3. in section 62 to eliminate record-keeping requirements relating to retention of controlled substances;
- HFS 132.66 (1) (d) in section 35 to establish the need for an authorized person's order for diagnostic services;
- HFS 132.68 (3) and (4) in section 36 to eliminate the requirements that residents be interviewed before or at the time of admission and that residents' social needs and potential for discharge be evaluated within two weeks after admission;
- HFS 132.69 (2) (a) 1. a. in section 37 to repeal the requirement that activities coordinators need a bachelor's degree in recreation therapy and are eligible for registration as a therapeutic recreation specialist with the national therapeutic recreation society;
- HFS 132. 82 in sections 38 and 39 and HFS 134.82 in sections 64 to 66 to update life safety code requirements;
- HFS 132.83 (4) in section 40 and HFS 134.83 (4) (a) in section 67 to extend the requirement for emergency power to medical records, if solely electronically based;
- HFS 132.83 (5) (b), (c) and (d) in section 41 and HFS 134.83 (5) (b), (c) and (d) in section 68 to eliminate the requirement that carpeting, acoustical tile and wastebaskets be of noncombustible material because these provisions are covered in the 2000 edition of the Life Safety Code;
- HFS 132.83 (7) (a) 2. in section 42 and HFS 134.83 (8) (a) 2. in section 69 to simplify the requirement for water temperature maintenance and reduce the allowable maximum water temperatures to a safe level;
- HFS 132.84 (3) and (4) in section 43 to update requirements relating to centralized nurse stations that incorporate contemporary design standards, which are less institutional, and broadens technological options for facilities;
- HFS 132.84 (6) (d) 12. in section 44 and HFS 134.84 (5) (c) 12. in section 70 to allow kitchen ceilings to have surface seams;
- HFS 134.12 (1) in section 45 to clarify the applicability of chapter HFS 134;
- HFS 134.13 (2) and (3) in section 46 to modify the definitions of "active treatment" and "activities of daily living;"
- HFS 134.13 (4) in section 47 and HFS 134.41 (2) (b) in section 52 to eliminate the option of an administrator being qualified solely on the basis of being a qualified mental health retardation specialist;

- HFS 134.13 (13) in section 49 to raise the threshold of how many persons must reside in a setting for the setting to be classified a "facility for the developmentally disabled" and reword the definition;
- HFS 134.14 (2) (a) 1. in section 51, HFS 134.47 (3) (g) 5. (note) in section 54 and HFS 134.81 (2) (a) and (b) in section 63 to correct terminology; and
- HFS 134.67 (4) (b) in section 62 is eliminate to the requirement that emergency medicines in the emergency medication kit be limited to injectable or sublingual medications.

Summary of, and comparison with, existing or proposed federal regulation

Comparable federal regulations to chs. HFS 132 and 134 are found in 42 CFR 483.5 and 42 CFR 483.10 through 483.75 for nursing homes and 42 CFR 440.150 and 42 CFR 410 through 483.480 for facilities serving people with developmentally disabled. The federal regulations and the Wisconsin rules address largely similar regulatory areas. Generally, Wisconsin's rules address more aspects of long-term care and, in some cases, are more prescriptive than the comparable federal regulations. However, through this rulemaking order, the Department is proposing to make its rules less prescriptive and more consistent with existing federal requirements. When federal standards were revised in the late 1980's and early 1990's, the Department granted long-term care facilities a variety of waivers to requirements in chs. HFS 132 and 134 because the rules were not compatible with new federal certification standards. For example, the Department issued waivers regarding the requirements for milk and single service utensils. Therefore, one of the purposes of this rulemaking order is to revise the rules so waivers are no longer necessary. The existing requirements pertaining to dietary services in chs. HFS 132 and 134 are being repealed because the rules are more prescriptive than federal regulations in 42 CFR 483.35. This rulemaking order also proposes to improve consistency with federal requirements by adopting the 2000 edition of the LSC. However, not all of the Department's proposed changes will make its rules more consistent with current federal regulations. For example, currently, federal regulations do not specifically address the management of resident pain. Given that the Department believes it important to do so, the Department is therefore also proposing to incorporate standards for pain management in this rulemaking order.

Comparison with rules in adjacent states

The Department's proposed rule changes each are for one or more of the following purposes: to be more consistent with federal regulations; to update the terminology used in the rules; to reflect current practice standards or concepts; and to clarify or eliminate overly prescriptive or obsolete language. Consequently, the Department reviewed the comparable rules of the adjacent states with respect to these types of changes.

In general, the administrative rules in the adjacent states are very similar to the Department's and address the same subject areas as ch. HFS 132. Some of the administrative rules for nursing homes in Illinois, Iowa and Michigan are more prescriptive and detailed than those proposed for ch. HFS 132, while Minnesota's rules are less prescriptive and detailed.

Each of the four adjacent states has made some effort to include federal language in their administrative rules. However, the degree to which each state has done so varies greatly. Through this rulemaking order, Wisconsin will surpass or be consistent with other states in adopting federal regulatory language into state administrative code. Many of the language changes in the proposed rulemaking order promote home-like environments and recognize technological advances in ways that exceed the current provisions in other states' administrative codes.

Through this rulemaking order, Wisconsin is proposing to incorporate and adopt the 2000 edition of the life safety code. Both Iowa, in administrative code 661, chapter 5, and Minnesota, in administrative rule 7510, section 102.10, have already adopted the 2000 edition of the Life Safety Code. However, both Illinois, in administrative code chapter 250, and Michigan, in administrative code chapter 29.1802, have only adopted the 1997 edition of the life safety code.

Summary of factual data and analytical methodologies

To develop these rules, the Department's Bureau of Quality Assurance formed a task force consisting of BQA program staff and members from the following agencies: the Department's Office of Legal Counsel, the Division of Public Health, both Wisconsin nursing home associations, representative nursing homes, and the Board on Aging and Long Term Care. The Task Force met over a period of six months to develop the proposed language and to achieve consensus on the revisions in this rulemaking order. The Department's intent is to improve chs. HFS 132 and 134 by updating rules to recognize changes in service delivery and technology.

Analysis and supporting documents used to determine effect on small business

Department data indicate that only two of the current 444 licensed nursing homes and facilities for the developmentally disabled are characterized as small businesses. Even so, only the following two proposed rule changes may modestly increase costs for those facilities:

The newly proposed language for the quality assessment and assurance in s. HFS 132.46 (7) requires nursing homes to create a committee composed of at least five persons who must meet quarterly to review quality of care issues in the facility. This requirement may add a very modest administrative workload. However, this modest increase in administrative costs should be offset with the repeal of s. HFS 132.65 (3) (a), which required a pharmaceutical services committee.

The proposed language in ss. HFS 132.82 (1) and 134.82 (1) adopts the federal 2000 life safety code. These standards may require some facilities to make repairs or upgrades to their physical plant. However, ss. HFS 132.82 (2) and 134.82 (3) provide an alternative facility response. In addition, the Department has the authority to grant waivers to facilities to avoid undue financial burden in unique situations. The objective of this proposal is to provide safety to residents during fires and other emergencies. The adoption and use of the 2000 edition of the life safety code will bring Wisconsin up to date by requiring the latest and best technology for fire protection for Wisconsin long-term care facilities. The 2000 edition also protects property and can reduce the dollar loss associated with a fire.

Effect on small business

The fiscal impact on small business as defined in s. 227.114 (1), Stats., will be minimal. As described previously in this order, the majority of the proposed rule revisions either eliminate rules and prescriptive language, expand and update definitions for current terminology, or ease an existing standard. In addition, no new anticipated small business impact will be associated with the parallel Wisconsin proposed adoption of the 2000 edition of the Life Safety Code.

Anticipated costs incurred by private sector

The Department does not anticipate any increased costs by the private sector.

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Place where comments are to be submitted and deadline for submission

Comments may be submitted to Cheryl Bell-Marek at any of the above addresses and numbers or at the Department's administrative rules website: http://adminrules.wisconsin.gov. Once at the Department's rules website, enter the search term "nursing home," "HFS 132" or "HFS 134" to find the pertinent rule promulgation information and to submit comments. (The pertinent rulemaking initiative is titled, "Revisions to HFS 132 & 134 Rules for Long-Term Care Facilities.")

While the public comment period is not known at this time, persons may register at the preceding website to receive email notification of when the public comment period on this proposed rule begins.

Rule text

SECTION 1. HFS 132.13 (1) is repealed and recreated to read:

HFS 132.13 (1) "Abuse" has the meaning specified under s. HFS 13.03 (1).

SECTION 2. HFS 132.13 (1m) is created to read:

HFS 132.13 (1m) "Advanced practice nurse prescriber" means a person who has been granted a certificate to issue prescription orders under s. 441.16 (2), Stats.

SECTION 3. HFS 132.13 (2) is amended to read:

HFS 132.13 (2) "Ambulatory" means able to walk ~~without~~ independently or with limited assistance from a person or equipment, such as a walker or cane.

SECTION 4. HFS 132.13 (2m) is created to read:

HFS 132.13 (2m) "Authorized prescriber" means a person licensed in this state to prescribe medications, treatments or rehabilitative therapies, or licensed in another state and recognized by this state as a person authorized to prescribe medications, treatments or rehabilitative therapies.

SECTION 5. HFS 132.13 (5) is amended to read:

HFS 132.13 (5) "Dietitian" means a person who ~~either~~ is any of the following:

(a) ~~Is eligible for registration as a dietitian by the commission on dietetic registration of the American dietetic association under its requirements in effect on January 17, 1982; or~~ Certified under s. 448.78, Stats.

(b) ~~Has a baccalaureate degree with major studies in food and nutrition, dietetics, or food service management, and has one year of supervisory experience in the dietetic service of a health care institution~~ Licensed or certified as a dietitian in another state.

SECTION 6. HFS 132.13 (8r) and (13m) are created to read:

HFS 132.13 (8r) "Intensive skilled nursing care" means care requiring specialized nursing assessment skills and the performance of specific services and procedures that are complex because of the resident's condition or the type or number of procedures that are necessary, including any of the following:

(a) Direct patient observation or monitoring or performance of complex nursing procedures by registered nurses or licensed practical nurses on a continuing basis.

(b) Repeated application of complex nursing procedures or services every 24 hours.

(c) Frequent monitoring and documentation of the resident's condition and response to therapeutic measures.

(13m) "Neglect" has the meaning specified under s. HFS 13.03 (14.)

SECTION 7. HFS 132.31 (1) (k) is amended to read:

HFS 132.31 (1) (k) *Abuse and restraints.* 1. Be free from mental and physical abuse, and be free from chemical and physical restraints except when required to treat the resident's medical symptoms and as authorized in writing by a physician for a specified and limited period of time and documented in the resident's medical record.

2. Notwithstanding the limitation in subd. 1. for using restraints only to treat a resident's medical symptoms, ~~Physical~~ physical restraints may be used in an emergency when necessary to protect the resident or another person from injury or to prevent physical harm to the resident or another person resulting from the destruction of property, provided that written authorization for continued use of the physical restraints is obtained from the physician within 12 hours. Any use of physical restraints shall be noted in the resident's medical record. ~~"Physical~~ In this paragraph, "physical restraint" means any manual method, article, device or garment used primarily to modify resident behavior by interfering with the free movement of the resident or normal functioning of a portion of the body, and which the resident is unable to remove easily, or confinement in a locked room, but does not include a mechanical support as defined under s. HFS 132.60 (6) (a) 2.

SECTION 8. HFS 132.32 (1) (b) is amended to read:

HFS 132.32 (1) (b) Any employee, agent, or designated representative of a community legal services program or community service organization who meets the requirements of sub. (2) shall be permitted access to any facility whenever visitors are permitted by the written visitation policy referred to in s. HFS 132.31 (1) (a) 3., but not before 8:00 a.m., ~~nor~~ or after 9:00 p.m.

SECTION 9. HFS 132.42 (3) and (4) are amended to read:

HFS 132.42 (3) PHYSICAL HEALTH CERTIFICATIONS. (a) *New employees.* Every employee shall be certified in writing by a physician, ~~or physician extender~~ physician assistant or an advanced practice nurse prescriber as having been screened ~~prior to employment, for evidence of infectious disease~~ for the presence of clinically apparent communicable disease that could be

transmitted to residents during the normal performance of the employee's duties. This certification shall include screening for tuberculosis within 90 days prior to employment.

(b) *Continuing employees.* Employees shall be ~~retested for tuberculosis infection based on the prevalence of tuberculosis in the community and the likelihood of exposure to tuberculosis in the facility~~ rescreened for clinically apparent communicable disease as described in par. (a) based on the likelihood of exposure to a communicable disease, including tuberculosis. Exposure to a communicable disease may be in the facility, in the community or as a result of travel or other exposure.

(c) *Non–employees*. Persons who reside in the facility but are not residents or employees, such as relatives of the facility's owners, shall ~~obtain physician certifications~~ be certified in writing as required ~~of employees~~ in pars. (a) and (b).

(4) DISEASE SURVEILLANCE AND CONTROL. When an employee or prospective employee has a ~~contagious infection,~~ communicable disease that may result in the transmission of the communicable disease, he or she may not perform employment duties in the ~~nursing home~~ facility until the ~~nursing home~~ facility makes safe accommodations to prevent the ~~infection's spread~~ transmission of the communicable disease.

Note: The Americans with Disabilities Act and Rehabilitation Act of 1973 prohibits the termination or non-hiring of an employee based solely on an employee having an infectious disease, illness or condition.

SECTION 10. HFS 132.44 (1) (c) is renumbered HFS 132.44 (1) (b).

SECTION 11. HFS 132.45 (3) is repealed and recreated to read:

HFS 132.45 (3) MEDICAL RECORDS – STAFF. Duties related to medical records shall be completed in a timely manner.

SECTION 12. HFS 132.45 (4) (g) 2. is amended to read:

HFS 132.45 (4) (g) 2. A rubber stamp reproduction or electronic representation of a person's signature may be used instead of a handwritten signature, if:

a. The stamp or electronic representation is used only by the person ~~whose signature the stamp replicates~~ who makes the entry; and

b. The facility possesses a statement signed by the person, certifying that only that person shall possess and use the stamp or electronic representation.

SECTION 13. HFS 132.45 (5) (d) is repealed and recreated to read:

HFS 132.45 (5) (d) *Social service records*. Notes regarding pertinent social data and action taken.

SECTION 14. HFS 132.45 (5) (e) is amended to read:

HFS 132.45 (5) (e) *Activities records*. Documentation of activities programming, ~~a history and assessment as required by s. HFS 132.52 (6),~~ a summary of attendance, and quarterly progress notes.

SECTION 15. HFS 132.45 (5) (g) is repealed.

SECTION 16. HFS 132.46 is created to read:

HFS 132.46 Quality assessment and assurance. (1) COMMITTEE MAINTENANCE AND COMPOSITION. A facility shall maintain a quality assessment and assurance committee for the purpose of identifying and addressing quality of care issues. The committee shall be comprised of at least all of the following individuals:

(a) The director of nursing services.

(b) The medical director or a physician designated by the facility.

(c) At least 3 other members of the facility's staff.

(2) COMMITTEE RESPONSIBILITIES. The quality assessment and assurance committee shall do all of the following:

(a) Meet at least quarterly to identify quality of care issues with respect to which quality assessment and assurance activities are necessary.

(b) Identify, develop and implement appropriate plans of action to correct identified quality deficiencies.

(3) CONFIDENTIALITY. The department may not require disclosure of the records of the quality assessment and assurance committee except to determine compliance with the requirements of this section. This paragraph does not apply to any record otherwise specified in this chapter or s. 50.04 (3), 50.07 (1) (c) or 146.82 (2) (a) 5., Stats.

SECTION 17. HFS 132.51 (2) (b) is repealed and recreated to read:

HFS 132.51 (2) (b) *Communicable diseases*. 1. 'Communicable disease management.' The nursing home shall have the ability to appropriately manage persons with communicable disease the nursing home admits or retains based on currently recognized standards of practice.

2. 'Reportable diseases.' Facilities shall report suspected communicable diseases that are reportable under ch. HFS 145 to the local public health officer or to the department's bureau of communicable disease.

SECTION 18. HFS 132.51 (2) (c) is amended to read:

HFS 132.51 (2) (c) ~~*Destructive*~~ *Abusive or destructive residents*. 1. Notwithstanding s. HFS 132.13 (1), in this paragraph, "abusive" describes a resident whose behavior involves any single or repeated act of force, violence, harassment, deprivation or mental pressure which does or reasonably could cause physical pain or injury to another resident, or mental anguish or fear in another resident.

2. Residents who are known to be destructive of property, self–destructive, disturbing or abusive to other residents, or suicidal, shall not be admitted or retained, unless the facility has and uses sufficient resources to appropriately manage and care for them.

SECTION 19. HFS 132.52 (2) (c) and (4) are amended to read:

HFS 132.52 (2) (c) Receipt of certification in writing from a physician, ~~or physician extender~~ physician assistant or advanced practice nurse prescriber that the ~~person is free of airborne or other~~ individual has been screened for the presence of clinically apparent communicable disease that could be transmitted to other residents or employees, ~~or an order for procedures to treat and limit the spread of any communicable disease the person~~ including screening for tuberculosis within 90 days prior to admission, or a physician, physician assistant or advanced practice nurse prescriber has ordered procedures to treat and limit the spread of any communicable diseases the individual may be found to have.

(4) INITIAL CARE PLAN. Upon admission, a plan of care for nursing services based on an initial assessment shall be prepared and implemented, pending development of the plan of care required by s. HFS 132.60 (8).

SECTION 20. HFS 132.52 (5) and (6) are repealed.

SECTION 21. HFS 132.60 (1) (c) 5. is created to read:

HFS 132.60 (1) (c) 5. The nursing home shall provide appropriate assessment and treatment of pain for each resident suspected of or experiencing pain based on accepted standards of practice that includes all of the following:

a. An initial assessment of pain intensity that shall include: the resident's self-report of pain, unless the resident is unable to communicate; quality and characteristics of the pain, including the onset, duration and location of pain; what measures increase or decrease the pain; the resident's pain relief goal; and the effect of the pain on the resident's daily life and functioning.

b. Regular and periodic reassessment of the pain after the initial assessment, including quarterly reviews, whenever the resident's medical condition changes, and at any time pain is suspected, including prompt reassessment when a change in pain is self-reported, suspected or observed.

c. The delivery and evaluation of pain treatment interventions to assist the resident to be as free of pain as possible.

d. Consideration and implementation, as appropriate, of nonpharmacological interventions to control pain.

SECTION 21. HFS 132.60 (5) (a) 1. and 2. are amended to read:

HFS 132.60 (5) (a) 1. 'Restriction.' Medications, treatments and rehabilitative therapies shall be administered as ordered by ~~a physician or dentist~~ an authorized prescriber subject to the resident's right to refuse them. No medication, treatment or changes in medication or treatment may be administered to a resident without ~~a physician's or dentist's~~ an authorized prescriber's written order, which shall be filed in the resident's clinical record~~, except as provided in subd. 2~~.

2. 'Oral orders.' ~~Oral orders from physicians or dentists may be accepted by a nurse or pharmacist, or, in the case of oral orders for rehabilitative therapy, by a therapist.~~ Oral orders shall be immediately written, signed and dated by the nurse, pharmacist or therapist on ~~a physician's or dentist's~~ the prescriber's order sheet, and shall be countersigned by the ~~physician or dentist within 72 hours~~ prescriber and filed in the resident's clinical record within 10 days of the order.

SECTION 23. HFS 132.60 (5) (a) 3. and (c) are repealed.

SECTION 24. HFS 132.60 (5) (d) 2. and (6) (b) are amended to read:

HFS 132.60 (5) (d) 2. 'Responsibility for administration.' Policies and procedures designed to provide safe and accurate acquisition, receipt, dispensing and administration of medications shall be developed by the facility and shall be followed by personnel assigned to prepare and administer medications and to record their administration. The same person shall prepare, administer, and immediately record in the resident's clinical record the administration of medications, except when a single unit dose package distribution system is used.

(6) (b) *Orders required.* Physical or chemical restraints shall be applied or administered only on the written order of a physician which shall indicate the resident's name, the reason for restraint, and the period during which the restraint is to be applied. The use of restraints shall be consistent with the provisions under s. HFS 132.31 (1) (k).

SECTION 25. HFS 132.62 (2) (a) 1. is amended to read:

HFS 132.62 (2) (a) 1. 'Staffing requirement.' Every skilled care facility and every intermediate care facility shall employ a full–time director of nursing services who may also serve as a charge nurse in accordance with par. (b). ~~The director of nursing services shall work only on the day shift except as required for the proper supervision of nursing personnel.~~

SECTION 26. HFS 132.62 (3) (a) is repealed and recreated to read:

HFS 132.62 (3) (a) *Total staffing*. Each nursing home, other than nursing homes that primarily serve people with developmental disabilities, shall provide at least the following hours of service by registered nurses, licensed practical nurses or nurse's assistants:

1. For each resident in need of intensive skilled nursing care, 3.25 hours per day, of which a minimum of 0.65 hour shall be provided by a registered nurse or licensed practical nurse.

2. For each resident in need of skilled nursing care, 2.5 hours per day, of which a minimum of 0.5 hour shall be provided by a registered nurse or licensed practical nurse.

3. For each resident in need of intermediate or limited nursing care, 2.0 hours per day, of which a minimum of 0.4 hour shall be provided by a registered nurse or licensed practical nurse.

SECTION 27. HFS 132.63 (1) is amended to read:

HFS 132.63 (1) DIETARY SERVICE. The facility shall provide ~~a dietary service or contract for a dietary service which meets the requirements of this section~~ each resident a nourishing, palatable, well-balanced diet that meets the daily nutritional and special dietary needs of each resident.

SECTION 28. HFS 132.63 (2) is repealed and recreated to read:

HFS 132.63 (2) STAFF. (a) *Dietitian*. The nursing home shall employ or retain on a consultant basis a dietitian to plan, direct and ensure implementation of dietary service functions.

(b) *Director of food services*. 1. The nursing home shall designate a person to serve as the director of food services. A qualified director of food services is a person responsible for implementation of dietary service functions in the nursing home and who meets any of the following requirements:

a. Is a dietitian.

b. Has completed at least a course of study in food service management approved by the dietary managers association or an equivalent program.

c. Holds an associate degree as a dietetic technician from a program approved by the American dietetics association.

2. If the director of food services is not a dietitian, the director of food services shall consult with a qualified dietitian on a frequent and regularly scheduled basis.

(c) *Staffing*. The nursing home shall employ a sufficient number of dietary personnel competent to carry out the functions of the dietary service.

SECTION 29. HFS 132.63 (6) (c) and (7) (a) 4. are repealed.

SECTION 30. HFS 132.65 (2) is amended to read:

HFS 132.65 (2) SERVICES. (a) Each facility shall provide for obtaining medications for the residents directly from licensed pharmacies.

(b) The facility shall establish, maintain, and implement such policies and procedures as are necessary to comply with this section and assure that resident needs are met.

SECTION 31. HFS 132.65 (3) (a) is repealed.

SECTION 32. HFS 132.65 (3) (b) 1. and 2. are renumbered (a) and (b) amended to read:

HFS 132.65 (3) (a) ~~*Medication*~~ *SNF medication consultant*. Each skilled nursing facility shall retain a registered pharmacist who shall visit the facility at least monthly to review the drug regimen of each resident and medication practices. The pharmacist shall submit a written report of findings at least quarterly to the facility's ~~pharmaceutical services committee~~ quality assessment and assurance committee.

(b) *ICF medication consultant*. Each intermediate care facility shall retain a registered pharmacist who shall visit the facility at least monthly to review medication practices and the drug regimen of each resident and who shall notify the attending physician if changes are appropriate. The pharmacist shall submit a written report of findings at least quarterly to the facility's ~~pharmaceutical services committee~~ quality assessment and assurance committee.

SECTION 33. HFS 132.65 (5) (d) is amended to read:

HFS 132.65 (5) (d) *Committee authorization.* The ~~pharmaceutical services~~ quality assessment and assurance committee shall determine which medications and strengths of medications are to be stocked in the contingency storage unit and the procedures for use and re–stocking of the medications.

SECTION 34. HFS 132.65 (6) (c) 3. is repealed.

SECTION 35. HFS 132.66 (1) (d) is created to read:

HFS 132.66 (1) (d) *Physician's order*. No services under this subsection may be provided without the order of a physician, physician assistant or an advanced practice nurse prescriber.

SECTION 36. HFS 132.68 (3) and (4) are repealed and recreated to read:

HFS 132.68 (3) ADMISSION HISTORY. The facility shall prepare a social history of each resident.

(4) CARE PLANNING. (a) A social services component of the plan of care, including preparation for discharge, if appropriate, shall be developed and included in the plan of care required by s. HFS 132.60 (8) (a).

(b) Social services care and plans shall be evaluated in accordance with s. HFS 132.60 (8) (b).

SECTION 37. HFS 132.69 (2) (a) 1. a. is repealed:

SECTION 38. HFS 132.82 (1) to (5) and Table 132.82 are repealed and recreated to read:

HFS 132.82 Life safety code. (1) APPLICABILITY. Facilities shall meet the applicable provisions of the 2000 edition of the Life Safety Code.

Note: Copies of the 2000 Life Safety Code and related codes are on file in the Department's Bureau of Quality Assurance, the Revisor of Statutes' Bureau and the Secretary of State's Office, and may be obtained from the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.

(2) FIRE SAFETY EVALUATION SYSTEM. A proposed or existing facility not meeting all requirements of the applicable life safety code shall be considered in compliance if it achieves a passing score on the Fire Safety Evaluation System (FSES), developed by the United States department of commerce, national bureau of standards, to establish safety equivalencies under the life safety code.

SECTION 39. HFS 132.82 (6) is renumbered 132.82 (3).

SECTION 40. HFS 132.83 (4) is amended to read:

HFS 132.83 (4) EMERGENCY POWER. Emergency electrical service with an independent power source which covers lighting at nursing stations, telephone switchboards, exit and corridor lights, boiler room, ~~and~~ fire alarm systems, and medical records when solely electronically based, shall be provided. The service may be battery operated if effective for at least 4 hours.

SECTION 41. HFS 132.83 (5) (b), (c) and (d) are repealed.

SECTION 42. HFS 132.83 (7) (a) 2. is amended to read:

HFS 132.83 (7) (a) 2. An adequate supply of hot water shall be available at all times. The temperature of hot water at plumbing fixtures used by residents may not exceed ~~110º F. (43º C.)~~

~~and shall be automatically regulated by control valves or by another approved device~~ the range of 110-115° F.

SECTION 43. HFS 132.84 (3) and (4) are repealed and recreated to read:

HFS 132.84 (3) STAFF WORK STATIONS AND OTHER REQUIRED FACILITIES. Each resident living area shall have all of the following:

(a) A staff work station whose location allows staff to provide services to all living areas, resident bedrooms and resident use spaces. The facility shall contain adequate storage space for records and charts and shall contain a desk or work counter for staff, a functional telephone for emergency calls and a resident communication system as required under sub. (4). Staff work stations shall be located to meet the needs of the resident population being served.

(b) Space for storage of linen, equipment and supplies, unless a central space for storage is provided.

(c) 1. Except as provided in subds. 2. and 3., a well-lit, secure medicine preparation, storage and handling room or area available to each staff work station with a work counter, refrigerator, sink with hot and cold running water, and a medicine storage cabinet with lock or space for drug carts. The room shall be mechanically ventilated.

2. In period A nursing homes, a well-lit medicine preparation, storage and handling area equipped with a sink and hot and cold running water may continue to be used. Mechanical ventilation is not required.

3. In period B nursing homes, cart storage space and mechanical ventilation within the medicine preparation room are not required.

(d) 1. Except as provided in subds. 2., 3. and 4., a soiled utility room central to each resident sleeping room wing or module that is equipped with a flush-rim siphon jet service sink, a facility for sanitizing bedpans, urinals, emesis basins, thermometers and related nursing care equipment, appropriate cabinet and counter space, and sink with hot and cold running water. The room shall be mechanically ventilated and under negative pressure.

2. Period A nursing homes shall have a utility room that shall be located, designed and equipped to provide areas for the separate handling of clean and soiled linen, equipment, and supplies.

3. Period B nursing homes shall have a ventilated utility room with a flush-rim service sink.

4. Central location of soiled utility rooms is not required in existing nursing homes.

(e) 1. Except as provided in subd. 2., a clean utility area or room central to each resident sleeping room wing or module that is equipped with a sink with hot and cold running water, counter, and cabinets for storage of clean utensils and equipment.

2. Period A and B nursing homes shall have a utility room located, designed and equipped to provide areas for the separate handling of clean and soiled linen, equipment and supplies.

(f) Period C nursing homes shall have staff toilet and hand-washing facilities separate from those used by residents.

(g) Period C nursing homes shall have a nourishment station with sink, hot and cold running water, refrigerator and storage for serving between-meal nourishment if a kitchen is not open at all times. Nourishment stations may serve more than one nursing area but not more than a single floor.

(4) RESIDENT AND STAFF COMMUNICATION. (a) Except as provided in pars. (b) and (c), the nursing home shall have a department-approved resident and staff communication system comprised of components listed by an independent testing laboratory to permit each resident to activate the call from resident rooms, toilet area, bathing areas, and activity areas. Nurse calls shall be visible from corridor or access aisles within each resident living area and an audible sounder shall annunciate upon failure of staff response. The communication signal emanating from the toilet, bath and shower areas shall be that of a distinctive emergency call. The activation device shall be reachable by the residents from each toilet, bath or shower location.

Note: Underwriter's Laboratory (UL) is an example of an independent testing laboratory.

(b) Nursing homes in existence [revisor to insert effective date] may continue using a nurse call system that registers calls from each resident bed, resident toilet room and each tub and shower area. In addition, in period B and C nursing homes, the resident staff signal may register in the corridor directly outside the room and at the staff work station.

(c) In all nursing homes in existence [revisor to insert effective date], the nursing home may retain use of non-source signal canceling equipment until any remodeling is undertaken within the smoke compartment where the equipment is located.

(d) Communication systems shall be functioning at all times.

SECTION 44. HFS 132.84 (6) (d) 12. is amended to read:

HFS 132.84 (6) (d) 12. 'Ceiling.' The ceiling shall be of plaster or equivalent material with smooth, light–colored, nonabsorbent, washable~~, and seamless~~ surfaces.

SECTION 45. HFS 134.12 (1) is amended to read:

HFS 134.12 Scope. (1) APPLICABILITY. ~~A facility that is regulated as a community-based residential facility defined in s. 50.01 (1), Stats., or a nursing home, defined in s. 50.01 (3), Stats., on July 1, 1988 and is subject to this chapter rather than to ch. HFS 83 or 132 if it is a facility serving people with developmental disabilities~~ All facilities that provide care primarily for people with developmental disabilities who require active treatment, including facilities owned and operated by the state, a county, a municipality or another public body, are subject to this chapter.

SECTION 46. HFS 134.13 (1), (2) and (3) are repealed and recreated to read:

HFS 134.13 (1) "Abuse" has the meaning specified under s. HFS 13.03 (1).

(2) "Active treatment" means an ongoing, aggressive and consistently applied program of training and treatment services to allow the client to function as independently as possible and maintain his or her maximum functional abilities.

(3) “ADL” or “activities of daily living” means personal skills essential for privacy and independence including toilet training, personal hygiene, self feeding, bathing, dressing, grooming and communication of basic needs.

SECTION 47. HFS 134.13 (4) is amended to read:

HFS 134.13 (4) “Administrator” means a person who is licensed under ch. 456, Stats., ~~or is a qualified mental retardation professional,~~ and who is responsible for the total operation of the facility.

SECTION 48. HFS 134.13 (4m) is created to read:

HFS 134.13 (4m) “Advanced practice nurse prescriber” means a person who has been granted a certificate to issue prescription orders under s. 441.16 (2), Stats.

SECTION 49. HFS 134.13 (5), (10) and (13) are amended to read:

HFS 134.13 (5) “Ambulatory” means able to walk ~~without~~ independently or with limited assistance from a person or equipment, such as a walker or cane.

(10) “Dietitian” means a person who is ~~either~~ any of the following:

(a) ~~Eligible for registration as a dietitian by the commission on dietetic registration of the American dietetic association under its requirements in effect on January 17, 1982 and certified with the state of Wisconsin~~ Certified under s. 448.78, Stats.; or

(b) ~~Has a baccalaureate degree with major studies in food and nutrition, dietetics, or food service management, and has one year of supervisory experience in the dietetic service of a health care institution~~ Licensed or certified as a dietitian in another state.

(13) “FDD” or “facility serving people with developmental disabilities” means a residential facility with a capacity of ~~3~~ 4 or more ~~residents in which nursing care is provided to any resident and which primarily serves residents who have developmental disabilities and who require and receive~~ individuals who need and receive active treatment and health services as needed.

SECTION 50. HFS 134.13 (23m) is created to read:

HFS 134.13 (23m) “Neglect” has the meaning specified under s. HFS 13.03 (14).

SECTION 51. HFS 134.14 (2) (a) 1. is amended to read:

HFS 134.14 (2) (a) 1. A center ~~for the developmentally disabled~~ serving people with developmental disabilities may have more than 16 residents; and

SECTION 52. HFS 134.41 (2) (b) is amended to read:

HFS 134.41 (2) (b) A facility licensed for 16 or fewer beds shall employ an administrator for at least 10 hours a week. No administrator may be employed by more than 4 of these facilities. The administrator ~~may either be an administrator~~ shall be licensed under ch. 456, Stats.~~, or a qualified mental retardation professional.~~

SECTION 53. HFS 134.44 (5) and (6) are repealed and recreated to read:

HFS 134.44 (5) PHYSICAL HEALTH CERTIFICATIONS. (a) *New employees.* Every employee shall be certified in writing by a physician, physician assistant or advanced practice nurse prescriber as having been screened for the presence of clinically apparent communicable disease that could be transmitted to residents during the normal performance of the employee's duties. This certification shall include screening for tuberculosis within 90 days prior to employment.

(b) *Continuing employees.* Employees shall be rescreened for clinically apparent communicable disease as described in par. (a) based on the likelihood of exposure to a communicable disease, including tuberculosis. Exposures to a communicable disease may be in the facility, in the community or as a result of travel or other exposure.

(c) *Non–employees.* Persons who reside in the facility but are not residents or employees, such as relatives of the facility's owners, shall be certified in writing as required in pars. (a) and (b).

(6) DISEASE SURVEILLANCE AND CONTROL. When an employee or prospective employee has a communicable disease, he or she may not perform employment duties in the facility that may result in the transmission of the communicable disease until the facility makes safe accommodations to prevent the transmission of the communicable disease.

Note: The Americans with Disabilities Act and Rehabilitation Act of 1973 prohibits the termination of an employee or the non-hiring of a person solely because that person has an infectious disease, illness or condition.

SECTION 54. HFS 134.47 (3) (g) 5. (note) and (h) 1. are amended to read:

HFS 134.47 (3) (g) 5. **Note:** Although this chapter obliges a facility to retain a resident's record for only 5 years following the resident's discharge or death, ch. HFS 92 requires a facility to retain the record of ~~a developmentally disabled resident~~ an individual with developmental disabilities for at least 7 years. See s. HFS 92.12 (1).

(h) 1. All entries in records shall be legible, permanently recorded, dated and authenticated with the name and title of the person making the entry. A rubber stamp reproduction or electronic representation of a person's signature may be used instead of a handwritten signature if:

a. The stamp or electronic representation is used only by the person ~~whose signature the stamp replicates~~ who makes the entry; and

b. The facility possesses a statement signed by the person, certifying that only that person shall possess and use the stamp or electronic representation.

SECTION 55. HFS 134.51 (1) (c) is repealed and recreated to read:

HFS 134.51 (1) (c) *Communicable disease management*. 1. 'Communicable diseases.' The facility shall have the ability to manage persons with communicable disease that the facility admits or retains, based on currently recognized standards of practice.

2. 'Reportable diseases.' Facilities shall report suspected communicable diseases that are reportable under ch. HFS 145 to the local public health officer or to the department's bureau of communicable disease.

SECTION 56. HFS 134.51 (1) (d) is amended to read:

HFS 134.51 (1) (d) *Destructive residents*. 1. Notwithstanding s. HFS 134.13 (1), in this paragraph, "abuse" means any single or repeated act of force, violence, harassment, deprivation or mental pressure which does or reasonably could cause physical pain or injury to another resident, or mental anguish or fear in another resident.

2. A person who the facility administrator has reason to believe is destructive of property or self–destructive, would disturb or abuse other residents or is suicidal, shall not be admitted or retained unless the facility has and uses sufficient resources to appropriately manage and care for the person.

SECTION 57. HFS 134.52 (2) (d) is repealed and recreated to read:

HFS 134.52 (2) (d) The facility has received written certification from a physician, physician assistant or advanced practice nurse prescriber that the individual has been screened for communicable diseases detrimental to other residents or a physician, physician assistant or advanced practice nurse prescriber has ordered procedures to treat and limit the spread of any communicable diseases the person may be found to have; and

SECTION 58. HFS 134.60 (4) (a) 2. and 3. and (c) are repealed.

SECTION 59. HFS 134.60 (4) (d) 2. and (5) (b) 1. are amended to read:

HFS 134.60 (4) (d) 2. Facilities shall develop policies and procedures designed to provide safe and accurate acquisition, receipt, dispensing and administration of medications and these policies and procedures shall be followed by personnel assigned to prepare and administer medications and to record their administration. Except when a single unit dose drug delivery system is used, the same person shall prepare and administer the resident's medications.

(5) (b) 1. Except as provided in subd. 2., a physical restraint may be applied only as an integral part of the resident's behavior management program on the written order of a physician. The order shall indicate the resident's name, the reason for the restraint and the period during which the restraint is to be applied. An order for a physical restraint not used as an integral part of a behavior management program may not be in effect longer than 12 hours.

SECTION 60. HFS 134.64 (6) (c) and (7) (a) 4. are repealed.

SECTION 61. HFS 134.67 (2) is repealed and recreated to read:

HFS 134.67 (2) SERVICES. Each facility shall provide for obtaining medications for the residents directly from licensed pharmacies.

SECTION 62. HFS 134.67 (4) (b) and (5) (c) 3. are repealed.

SECTION 63. HFS 134.81 (2) (a) and (b) are amended to read:

HFS 134.81 (2) (a) "Type I facility" means a facility first licensed by the department or the plans of which were approved by the department as a facility regulated under ch. H 30, 31 or 32 prior to January 23, 1968, or as a public institution ~~for the mentally retarded~~ serving people with developmental disabilities under ch. H 34 prior to or on November 1, 1972.

(b) “Type II facility” means a facility the plans of which were approved by the department as a facility regulated under ch. H 30, 31 or 32, or under ch. HSS 3 or 132, on or after January 23, 1968, or which was approved as a public institution ~~for the mentally retarded~~ serving people with developmental disabilities under ch. H 34 after November 1, 1972, or which applies for approval on or after July 1, 1988, including new construction, an addition to an existing licensed facility and major remodeling, alteration or conversion of a facility.

SECTION 64. HFS 134.82 (1) is repealed and recreated to read:

HFS 134.82 (1) APPLICABILITY. Facilities shall meet the applicable provisions of the 2000 edition of the life safety code.

Note: Copies of the 2000 Life Safety Code and related codes are on file in the Department’s Bureau of Quality Assurance, the Revisor of Statutes’ Bureau and the Secretary of State’s Office, and may be obtained from the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.

SECTION 65. HFS 134.82 (2), (3) (notes) and table 134.82 are repealed.

SECTION 66. HFS 134.82 (3) and (4) are renumbered (2) and (3).

SECTION 67. HFS 134.83 (4) (a) is amended to read:

HFS 134.83 (4) (a) If a facility houses more than 16 residents, it shall have an emergency electrical service with an independent power source which covers lighting at living unit stations, telephone switchboards, exit and corridor lights, boiler room, ~~and~~ fire alarm systems and medical records when solely electronically based. The service may be battery-operated if effective for at least 4 hours.

SECTION 68. HFS 134.83 (5) (b), (c) and (d) are repealed.

SECTION 69. HFS 134.83 (8) (a) 2. is amended to read:

HFS 134.83 (8) (a) 2. An adequate supply of hot water shall be available at all times. The temperature of hot water at a plumbing fixture used by residents may not exceed ~~110° F. (43° C.) and shall be automatically regulated by a control valve or by another equally effective device. In a facility where residents are receiving regular supervised training in adjusting water temperatures encountered in normal living situations or if all residents in a facility can demonstrate the ability to adjust water temperatures appropriately, the maximum temperature may be 140° F. (60° C.)~~ the range of 110° - 115° F.

SECTION 70. HFS 134.84 (5) (c) 12. is amended to read:

HFS 134.84 (5) (c) 12. The ceiling in the kitchen shall be of plaster or equivalent material with smooth, light–colored, nonabsorbent~~,~~ and washable ~~and seamless~~ surfaces;

Effective date

This rule takes effect on the first day of the month following publication in the Wisconsin administrative register, as provided in s. 227.22 (2) (intro.), Stats.

Wisconsin Department of Health and Family Services

Dated: August 30, 2004

By:_____
Helene Nelson
Secretary

SEAL: