1. April 29, 2020 Lakeland Health Care Center Board Of Trustees Agenda
   Documents:
   
   APRIL 29, 2020 LHCC AGENDA.PDF

2. April 29, 2020 Lakeland Health Care Center Board Of Trustees Packet
   Documents:
   
   APRIL 29, 2020 LHCC PACKET, WEBSITE.PDF
Lakeland Health Care Center Board of Trustees
MEETING NOTICE
Wednesday, April 29, 2020
1:00 PM
County Board Room 114
Walworth County Government Center
100 W. Walworth St., Elkhorn, Wisconsin

NOTICE: DUE TO THE CONTINUING PUBLIC HEALTH EMERGENCY,
THIS MEETING IS PLANNED TO PROVIDE FOR REMOTE OR OFF-SITE ATTENDANCE
BY COMMITTEE MEMBERS.

The Walworth County Government Center remains open, but in-person attendance will be severely
limited due to State imposed restrictions on group meeting sizes. ALL INDIVIDUALS ARE
STRONGLY ENCOURAGED TO WATCH THE MEETING STREAMING LIVE AT
https://mediasite.co.walworth.wi.us/Mediasite/Play/86e6af0af8ac4c5fb95722dbfed7f66e1d.

Individuals wanting to provide a Public Comment can do so remotely by telephone, but must contact
Nicole Hill at NHill@co.walworth.wi.us or at 262-741-4357 on the day of the meeting and at least 15
minutes prior to the start of the meeting to obtain instructions.

(Posted in compliance with Sec. 19.84 Wis. Stats.)

A quorum of the Health and Human Services Board will be in attendance.
It is possible that a quorum of the County Board or any of its other committees could be in attendance at this meeting.

Agenda items are available on the county’s web page (co.walworth.wi.us). The agenda packet, including supporting
documents, may be large depending upon the number of enclosures. Downloading it may take significant time.

AGENDA

Note: all agenda items are subject to action.

1. Call to order
2. Roll call of committee members
3. Agenda withdrawals, if any
4. Agenda approval
5. Approval of Minutes
   a) March 18, 2020 Lakeland Health Care Center Board of Trustees Meeting (encl. pp. 3-5)
6. Public Comment Period
7. Special Order of Business
   a) Nominations/Election of Chair of Lakeland Health Care Center Board of Trustees
   b) Nominations/Election of Vice Chair of Lakeland Health Care Center Board of Trustees
   c) Role of the Lakeland Health Care Center Board of Trustees (encl. pp. 6-74)
8. New business
   a) Resolution Authorizing the Reclassification of the Assistant Nurse Manager Position to a Nurse Manager Position, the Reclassification of a CNA Position to a Nurse Manager Position and the Elimination of a CNA Position at the Lakeland Health Care Center (encl. pp. 75-79)
   b) Plan for 2020 to address Aging Balances and Write Offs (encl. pp. 80-92)
   c) Quarterly Write Offs – 1st Quarter (encl. pp. 93-95)
   d) Annual Survey Results (encl. pp. 96)
   e) Addition of a Special Pay Premium for Direct, On-Going COVID Resident Treatment at LHCC (encl. pp. 97-100)
   f) Acceptance of CARES Act Funds (encl. p. 101)

9. Reports
   a) Business Activities Report (encl. pp. 102-105)
   b) Update on COVID-19 (encl. pp. 106-108)

10. Correspondence
11. Announcements
12. Upcoming Events
13. Set/confirm next meeting date and time – Wednesday, May 20, 2020 at 1:00 p.m.
14. Adjournment

Submitted by: Elizabeth Aldred, Health & Human Services Director

Posted: April 23, 2020
Memorandum

To: Lakeland Health Care Center Board of Trustees
Cc: Mark W. Luberda, County Administrator
From: Elizabeth Aldred, Superintendent of County Institutions
       Health & Human Services Director
Date: April 21, 2020
RE: April 29, 2020 LHCC Board of Trustees Meeting

The Lakeland Health Care Center Board of Trustees agenda includes the following items:

➢ Included in your packet is our Board Briefing book. This book includes the LHCC Trustees schedule, 2020 revenues and expenses, facility brochure, as well as provides a high level overview of our divisions. The division overviews includes a description of the significant programs and their key projects and issues. A copy of the relevant statues are included for your review as well.

➢ LHCC is seeking to add a nurse manager position and reclassify an assistant nurse manager to a nurse manager. The facility will be eliminating two certified nursing assistant positions that were previously identified as no longer needed due to the downsizing of the facility. The nurse manager positons will take primary responsibility for the direct care staff within their assigned units.

➢ One of the 2020 goals for the nursing home is to address the financial management of the facility. This plan has included the downsizing of the facility to 90 beds and the redesign of the vacant wing to provide additional high quality, revenue generating, valued services. In order to improve our financial status the leadership team has been looking at the aging balances and uncollectible debts. This month we will present our plan to address the aging balances for private pay and insurance revenues.

➢ We are seeking your approval to write off certain uncollectible revenues. These revenues are associated with services that were provided between 2015 and 2019.

➢ We have included in your packet for you review the results of our March annual state survey. The survey was deficiency and complaint free. This is the second year in a row that Lakeland Health Care Center has been able to achieve this milestone.

➢ We will be presenting to the Human Resources committee a request to add a special pay premium for staff within the Health Care Center who are
required to provide care for residents who have tested positive for COVID-19. At this time we do not have any residents that have tested positive. We, like our counterparts throughout the state, are preparing for staffing and care if a resident became ill. Further we have built contingency plans based on the need to keep COVID-19 positive residents separated from other residents. We are not seeking a premium pay for staff providing care to residents who do not test positive.

➢ LHCC received notification on April 17, 2020 of a CARES Act payment of $96,120.79. We are seeking board approval to accept these funds. We will plan to come back to the Trustees and the Finance Committee in the future with a budget amendment that addresses how these funds will be allocated.

➢ Included in your packet is our monthly business activity report. This report includes information on worker’s comp injuries and claims, overtime claimed and paid, resident statistics including admissions, discharges and deaths, payer mix, staffing statistics including call ins and mandatory hours, open senior management positons and major capital projects, the facility’s star rating and outstanding delinquent accounts. We have provided your information in the new format approved last month by the Trustees.

➢ We will be providing an update on the impact of COVID on our facility. We continue to look at ways to keep our residents connected, engaged and safe.

➢ This month we have not included our upcoming events in your packet. Due to the restriction for social gatherings in nursing homes all of our group activities have been cancelled. If there is any information you would like our leadership team to provide please let us know.
Chair Ken Monroe called the meeting to order at 1:00 p.m.

Roll call was conducted, with the following members present: Chair Ken Monroe, Vice Chair Tim Brellenthin, and Supervisors William Norem and Charlene Staples. Supervisor Kathy Ingersoll was absent. A quorum was declared.

Others in attendance:
County staff:  County Administrator Mark Luberda; Superintendent of County Institutions Elizabeth Aldred; Nursing Home Administrator Denise Johnson
Members of the public:  Gary Wagner, Lake Geneva, WI

On motion by Supervisor William Norem, second by Supervisor Charlene Staples, the agenda was approved with no withdrawals.

On motion by Supervisor Staples, second by Supervisor Norem, the February 19, 2020 Lakeland Health Care Center Board of Trustees meeting minutes were approved.

Public Comment – There was none.

Unfinished Business
- Food Service Update
Superintendent of County Institutions Elizabeth Aldred presented the memo included in the meeting packet. She said she is confident the food is served warm as the staff are required to take the temperature before it leaves the kitchen, but there has been an issue with an inadequate number of servers so food may not still be warm when served to those who receive it last. Office nursing staff and recreation staff have been assigned to assist with getting more people to the floor and fed. There are over 20 people who need assistance with feeding, which can make the process take longer. She advised that due to recent health issues related to Coronavirus, communal feeding times have not been possible, as residents need to remain separate. Chair Monroe asked if the number who require assistance with feeding is average and Aldred said it is. Supervisor Staples asked if people have to be certified to assist with feeding, or if volunteers are allowed. Nursing Home Administrator Denise Johnson said there are state requirements that dictate only certified people can feed those with restrictions, and unfortunately the majority of people who require assistance require special considerations. Johnson said regulations require those who need assistance with a special diet must be fed by those who are certified to do so. Supervisor Staples inquired about supper time when there are less office staff available and how they are ensuring all residents are being fed. Aldred said they are aware of this issue and are working to find a solution. Supervisor Staples asked Johnson or Aldred to contact the state to see if these regulations could be loosened at this unprecedented time.

New Business
- Introduction of new Nursing Home Administrator – Denise Johnson
Aldred introduced Denise Johnson. She started on February 24th and has significant history and experience working with nursing homes. She believes Johnson will be a great fit for LHCC. Johnson said she is very excited to be a part of LHCC and discussed her past experience. She said she enjoys challenges and learning new skills, and is looking forward to being the Administrator.
CMS Announces Actions to Address Spread of Coronavirus
Aldred noted a lot of the information has changed since this information was released on March 5th. There have been many new CMS (Center for Medicare & Medicaid Services) guidelines since this memo. The facility has had to limit family from entering the facility, as well as keeping meal times separate. Congregate recreation activities have been suspended, as well. The residents are at a high risk of this infection and staff are working to keep them healthy and safe. All staff members are having their temperatures taken before each shift to ensure they are healthy. Aldred said she is focused on providing a safe and healthy environment and the staff has been complying very well. She added the therapy department has been working to make electronic visits possible for residents to keep in touch with family and friends. Supervisor Staples suggested streaming devices be considered so residents have more to keep them entertained. Aldred said staff is working to ensure residents are having enough interactions.

Update on State Health Care Survey (Monitoring & Compliance)
Aldred said the surveyors arrived on the 12th and left on the 16th. They were supposed to be here through the 17th but left early as the facility had a deficiency-free survey. She praised the staff for their hard work and stated the positive responses from the surveyors were very exciting. The surveyors will provide a report in the coming days.

Infection Control Update
Aldred said this item was included in the agenda to address the current Coronavirus situation. She again noted there were no deficiencies in the survey with infection control and was pleased with this. She also noted staff is focused on antibiotic monitoring and infection control, as always. Staff undergoes annual training to ensure it is on the forefront of staff’s mind. During the survey, Johnson had to write a 16 page plan related to COVID-19 and it was reviewed well. Aldred again stated she was proud of the staff and the facility. Supervisor Staples praised the staff for their hard work.

Reports
2019 Updated Business Activities Report
Aldred directed the Board’s attention to the report included in the meeting packet. She said an issue had been identified with the report and the affected cells were highlighted, and said while the inaccuracies were not large, she wanted to provide the Board with the accurate information.

Business Activities Report
Aldred presented the report that was included in the meeting packet. She noted overtime costs are within the target window and advised the Board she will keep them up to date moving forward, as well. She directed their attention to page 17 of the report related to Aging Balances and noted this covers the last quarter and shows how the facility is doing at drawing down money. She made note of the large amount currently in collection and stated the goal in the future will be to reduce that amount significantly. She also said she would like to modify the report to make it more understandable at future meetings, including the graph on page 17. Supervisor Staples asked if there will be more of a collaboration getting the paperwork qualifying for Medicaid, and inquired how much time passes before an outstanding bill is written off. Aldred said a regular meeting with LHCC staff and Economic Support Staff has been established to ensure the paperwork is coordinated. She added that depending on the type of debt, there are different periods for when it needs to be written off as uncollectible, and there is no set time frame for all debt. Discussion ensued. Supervisor Norem made a motion, second by Vice Chair Tim Brellenthin, to accept both reports. Motion carried 4-0.
• Heart of the Home Newsletter

Aldred announced this newsletter has been brought back and will be included in future meeting packets. Staff are working to improve communications with family members. Vice Chair Brellenthin asked how the newsletter is distributed and Aldred said it will be sent to the mailing address provided by each resident’s main contact and will also be distributed throughout the facility. Johnson added she is looking into having it included on the website, as well.

**Correspondence –** There was none.

**Announcements –** There were none.

**Upcoming Events** – Information on upcoming events was included in the meeting packet. Vice Chair Brellenthin inquired how Coronavirus is affecting events and Aldred said next month’s list of events will look different.

**Confirmation of next meeting:** The next meeting was confirmed for Wednesday, April 29, 2020 at 1:00 p.m.

**On motion and second by Vice Chair Brellenthin and Supervisor Staples, Chair Monroe adjourned the meeting at 1:40 p.m.**

Submitted by Betsy Stanek, Administrative Assistant. Meeting minutes are not considered final until approved by the Board Trustees at the next meeting.
Walworth County
Lakeland Health Care Center

To provide superior care which enhances quality of life and supports the independence of our residents.
April 2020

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All meetings are 1:00 p.m. in the County Board Room located in the Government Center – 100 W. Walworth, Elkhorn, Wisconsin

Wednesday, April 29, 2020

Wednesday, May 20, 2020

Wednesday, June 17, 2020

Wednesday, July 22, 2020

August – no meeting

Wednesday, September 16, 2020

Wednesday, October 21, 2020

Wednesday, November 18, 2020

Wednesday, December 16, 2020

Wednesday, January 20, 2021

Wednesday, February 17, 2021

Wednesday, March 17, 2021

Wednesday, April 28, 2021
Our Therapeutic Recreation department focuses on purposeful quality of life, including community outings, socialization, physical activity, creative expressions, intergenerational and community events keeping you actively engaged.

Other Services Offered include:
- Dental
- Religious
- Podiatry
- Hospice
- Optometry
- Personal Banking
- Volunteer Services
- Audiology
- On-site Laundry
- 24 Hour Visiting

Amenities:
- Transportation
- Private Room with Bathroom
- Meal Options Served in Small Dining Setting
- Cable TV
- WIFI
- Gift Shop
- On-Site Beauty Shop
- Courtyards
- Sunrooms
- Pet Therapy

Our Mission: Our mission is to provide superior care which enhances quality of life and supports the independence of all of our residents. We are dedicated to the citizens of Walworth County, offering a comfortable homelike environment in a financially responsible manner. With the support of dedicated staff and volunteers, our knowledgeable team assists each resident to attain the highest practical physical, mental and psychosocial well-being through a variety of specialized programs.

Call Us Today! For More Information or to Schedule a Tour Contact Our Admissions Coordinator at 262-741-3600
Dementia/Memory Care
All Lakeland Health Care Center staff receives ongoing specialized training in basic and advanced Dementia care. We are committed to providing excellent care, and with a 30 bed locked dementia care unit, it is imperative that all staff are well trained.

Lakeland Health Care Center's 'memory care' team incorporates memory care techniques and skills as recommended by the 'Alzheimer's Association.' Team approach provides skilled and long-term services that are individualized for each resident, and their families, relating to their specific level of care.

A secured unit is offered on our memory care unit.

LONG TERM CARE (LTC)
All staff receives ongoing specialized training in basic and advanced Dementia care. We are committed to providing excellent care, and with a 30 bed locked dementia care unit, it is imperative that all staff are well trained.

POST-ACUTE CARE
Lakeland Health Care Center specializes in Occupational Therapy, Physical Therapy, & Speech Therapy assisting you and/or your family to improve their strength and health while supporting a safe transition to home. We work together with each resident, their family and their health care provider to create the best care and treatment plan for each guest.

Outpatient Therapy
Is available to continue treatment once you have returned home.
TOTAL REVENUES BY CATEGORY

- **Supplemental Payment**: $1,183,967 = 9.4%
- **Private Pay**: $2,466,180 = 19.5%
- **Tax Levy**: $2,625,928 = 20.8%
- **Add/(Use)**: $893,113 = 7.0%
- **Other Revenues**: $347,752 = 2.8%
- **Medicare**: $1,742,208 = 13.8%
- **Medicaid**: $3,375,512 = 26.7%
TOTAL EXPENSES BY DIVISION

- **Operations**
  - $2,590,280 = 20.4%

- **Dietary**
  - $1,370,912 = 10.8%

- **Social Services**
  - $321,081 = 2.5%

- **Clinical**
  - $7,457,198 = 58.7%

- **Therapy**
  - $490,836 = 3.9%

- **Recreation**
  - $475,287 = 3.7%

**TOTAL EXPENSES**

$12,059,551
Operations

2020 Adopted Budget Summary

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Key Personnel

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<td>Elizabeth Aldred</td>
<td>Superintendent of County Institutions</td>
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<td>Denise Johnson</td>
<td>Nursing Home Administrator</td>
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<td>Kristen Tranel</td>
<td>Administrative Services Manager</td>
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<tr>
<td>Patty Mohroich</td>
<td>Business Office Manager</td>
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Primary Programs

Administration - Plans, maintains and evaluates all Lakeland Health Care Center (LHCC) programming while administering the budget and fiscal functions for the facility. In addition, the Division provides client billing, accounts payable and other accounting/fiscal services.

Minimal Data Set (MDS) - Provides and gathers information to adequately assess the nursing home resident’s needs, and coordinates personalized resident driven care based on those assessments. The assessment takes into account all the services required to address both the physical and mental state of the resident.

Key Projects/Issues

- Development of the C Wing - LHCC administration is providing leadership in determining a plan for the use of the currently vacant C Wing. They plan will be based on the needs of Walworth County residents. The project will include making a recommendation for the use of the wing as well as providing oversight during the redesign process in order to stay on target with the budget, timelines and clinical design.

- Reducing Write-offs - The business operations report is submitted to the board of trustees on a monthly basis. In 2020, we are looking to reduce the outstanding accounts receivable to reflect sound billing and financial practices.

- Fiscal Management: LHCC utilized fund balance transfers and added to its budget in 2019 to meet its financial obligations. There is also planned use of fund balance for 2020. The LHCC leadership team continues to provide oversight and management of the budget and look at cost saving measures to reduce the reliance on fund balance and achieve a sustainable budget in 2020 and into the future.

- Reduction of Aging Balances: The business operations report is submitted to the board of trustees on a monthly basis. In 2020, we are looking to write off outstanding balances with no prospect to collect in order to create a more accurate picture of the aging balance and
accounts receivable. The goal for 2020 is to reduce the balance of the 90+ days outstanding A/R.

- **Contracts with Payer Sources** – LHCC participates in a limited number of provider networks. Referrals to the facility are often turned down or are not pursued when potential residents learn that their insurance will not cover their stay. We will work to increase the number of provider networks that we are a part of thus increasing the number of referrals that we can accept and the number of residents with pay sources other than private pay. This will expand our accessibility to the community.

- **Recruitment** - The facility will be exploring new ways to recruit additional nursing and CNA staff during this period of statewide shortages in staff for long term care facilities.

- **Social Media** - Administration is developing a new social media policy and broaden its use to market LHCC activities, identify bed availability, create connections with families and showcase services to the community.

- **Increased Telecommunication Options** - The facility has identified needs to expand its ability to connect residents to their loved ones during the pandemic. Technology has become more important to increase access and connectivity. The Health Care Center will need to continue to explore alternative methods of communicating “in-person” over technology.

- **Synergies with Lakeland Health Care Center** – Health and Human Services and Lakeland Health Care Center are collaborating to expand services, harness resources and create synergies. Examples of this include sharing pharmacy and lab services, a Sustainable Kitchens Project, joint administrative services and shared psychiatric/psychological services. The Long Term Care unit of Economic Support is providing training and resources to help residents in applying for long term care Medicaid.

- **Impact of COVID-19** – Long term care facilities have been heavily impacted by the pandemic. We are posting updates on our website pertaining to access to our facility and the care of our residents on a regular basis. The county continues to take new admission to help the hospital systems create capacity. Admissions have been significantly down which is resulting in a decrease in revenues. Skilled care facilities and hospitals are restricting their staff from working at more than one medical facility during the pandemic to avoid spread of the disease. This has impacted our ability to fill positions due to work conflicts for part time staff. Costs for supplies such as Personal Protective Equipment (PPE) and hand sanitizers have gone up as the need for these items have increased. The overall impact of this pandemic on our facility is yet to be seen.
Nursing

2020 Adopted Budget Summary

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Key Personnel

Tracy Bernardo     Director of Nursing 741-3629
Stacey Chmiel      Assistant Director of Nursing 741-3615
Robin Rogers       Assistant Nurse Manager 741-3613
Melissa Zeigler    Medical Records Lead Worker 741-3643

Primary Programs

Post-Acute Care/ Rehab - Specialized nursing care that assists residents to improve their strength and health while supporting a safe transition to home. We work together with each resident, their family, and their health care provider to create the best care and treatment plan for each guest. We specialize in wound care, cardiac care, stroke recovery, joint replacement, pain management, IV therapy and tracheostomy care.

Long Term Care – Creating a home like residence while providing a variety of medical and personal care services to people who are unable to manage independently in the community. Our team approach provides skilled and long term care services that are individualized for each resident and their family, relating to their specific level of care.

Dementia/ Memory Care – LHCC provides a specialty dementia care unit for 30 individuals as part of a secured area within our facility. Our staff are all trained in basic and advanced dementia care and our unit social worker and four C.N.A.’s are certified in an accredited dementia program. Our memory care team incorporates memory care techniques and skills as recommended by the Alzheimer’s Association to assure the best possible care is provided.

Key Projects/Issues

- Infection Control COVID-19 and Beyond - The COVID-19 outbreak changed the way we provide nursing home services to the elderly in our community. Focus was placed on infection control, limiting transmission of disease and improving infectious disease protocols to protect the health and wellbeing of our residents. Social distancing and isolation protocols have been expanded and altering the physical plant to eliminate cross circulation of airborne particles is being factored into how we will provide services now and into the future. Nursing homes are required to dedicate twenty hours a week of staff time to an infection prevention position. This position was eliminated in the downsizing budget.
We will need to address how best to fill this need with the added emphasis on infection control.

- **Medication Administration** - LHCC upgraded its electronic health record in 2019. Initial set up of the system created obstacles for accurate and complete charting. This was most concerning in the area of medication administration. The facility has set the expectation that we will maintain less than a 2% medication error rate. This is significantly below the CDC established guidelines. Nursing and facility leadership staff have worked to set up charting expectations, protocols and monitoring systems to ensure that we exceed expectation.

- **Improving our CMS CASPER Quarterly Report Quality Measures** - CMS grades nursing homes on a variety of quality measures. LHCC is currently a five star facility in quality measures. We will continue to focus on improving our quality measures to maintain our five star rating. Areas we are currently focusing on are include reducing urinary tract infections, reducing use of antipsychotic medications, and improving resident function including transfers, walking and locomotion.

- **Specialty staff** - The first 2020 budget included a 20 hour a week wound care specialist. This position was eliminated in the staffing reduction plan for the 90 bed facility. We will need to explore ways to address this need within the facility.

- **Maintaining our 5 star rating** - The five star rating system looks at three major areas. These are health inspections, staffing and quality measure. Lakeland Health Care Center maintains five stars in health and quality. The facility rating impacts admissions and reimbursement rates. To maximize our revenues we will need to explore ways to improve our rating in all areas. This will include looking at our staffing as well as remaining deficiency free during annual and complaint surveys.

- **Behavior Management** - All nursing homes are expected to reduce the use of antipsychotic medications prescribed to their residents. LHCC is working to develop a Gradual Dose Reduction (GDR) team that includes our nursing home administrator, nursing leadership, staff psychologist, social workers and our pharmacist. This team will look at ways to address behaviors. We are looking at utilizing a tool developed by the National Partnership to Improve Dementia Care in Nursing Homes to address quality assurance and performance improvement. This type of tool will assist us to adequately track GDRs.

- **Scheduling** - Overtime, mandated work schedules, short staffing patterns and use of pool staff have been tools utilized in the past to manage staffing shortages. These tools add to burn out and stress for our employees. We are working closely with our Human Resources department in fill our positions and decrease the use of these alternatives.

- **Electronic Health Records** – In October of 2019 LHCC changed its electronic health record. The new system is integrated with our pharmacy and our consulting physicians. It was anticipated that by changing to the new system there would be considerable efficiencies in billing and records management. The conversion process had many issues that are still being addressed at this time. We have partnered with IT to make adjustments to the system and correct implementation errors. The anticipated efficiencies include incorporating modern features like electronic signatures, more effective charting and processing, an integrated call light system and a transition to a paperless system. Transitioning to a paperless system will improve the flow of information and response to the clinical care needs of the residents.
Food and Nutrition Program

2020 Adopted Budget Summary

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Key Personnel
Christine Paczkowski  Food and Nutrition Manager  741-3651
Paulette Washay      Food and Nutrition Lead       741-3606

Primary Programs

Food and Nutrition Services - As part of the dietary program the clinical dietician conducts medical nutrition assessments for all residents including our high risk residents who have had a significant weight change, those with a Stage II or greater decubitus ulcers, those who are tube fed, and those on dialysis. These assessments include the development, implementation and/or review of nutrition care plans. The clinical dietician shall counsel residents and/or their legal representative with regards to the resident's nutritional needs and make appropriate referrals for continuing nutritional care.

Meal Preparation – Lakeland Health Care Center provides three meals a day for all residents based on the dietary requirements established by their care providers. Meals meet or exceed the nutritional expectations set forth by the American Dietetic Association and Federal and Drug Administration.

Key Projects/Issues

- **Sustainable Kitchens/ Senior Meal Program** - Lunches for Walworth County’s senior meal program congregate meal sites and home delivered meal programs will be made by the health care center’s kitchen. The Sustainable Kitchens program will provide a scratch meal preparation model for all meals within the Health Care Center.

- **Dietary Management** - The clinical dietician collaborates and communicates with health care providers as part of the interdisciplinary team. They develop a care plan for dietary needs upon admission, quarterly, yearly and when significant changes in condition occur. Care plans include types of diets, nutrition plans, and weight monitoring to ensure that the resident remains healthy and able to participate in all aspects of their care. We will be working on developing a system to make sure that plans are monitored and tailored to the residents needs as they change throughout their stay.

- **Dietary Contract** - The facility contracts with a dietitian to provide assistance with resident meal and nutrition planning as well as resident care plans. We have extended this contract for the past two years. We will need to go out to bid in 2021. In addition to providing medical nutrition assessments, care planning and dietary leadership, the clinical dietician offers in-service education regarding nutrition to facility staff and meets with the Administrator, Director of Nursing, and other nursing leadership staff on a monthly basis and provide recommendations regarding the nutritional needs and care plans of the residents.
Wounds and Weights - Interdisciplinary team at LHCC comprised of nursing, wound nurses, and dietary staff including the dietitian meet on the 1st and 3rd Wednesday of the month to review any resident that has experienced weight loss, change in intake, overall decline in health and/or functioning, and wounds. The team makes recommendations for the nursing, dietary, and therapy departments to achieve an excellent standard of care. This is one of the quality measures that comprises our five star rating.
Therapeutic Recreation

2020 Adopted Budget Summary

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Key Personnel
Lynette Kasper  Recreational Therapy Manager  741-3677

Primary Programs

Recreation Therapy - Our Therapeutic Recreation department focuses on purposeful quality of life including community outings, socialization, physical activity, creative expressions, intergenerational and community events that keep residents actively engaged.

Resident Counsel - Monthly resident meetings include a discussion of concerns and suggestions ranging from meal service, staffing concerns and leisure ideas. There is also an educational component that enables the staff to share information on topics of interest to the residents such as resident’s rights, transportation services by Wall to Wall, and healthy aging topics. State Surveyor also meeting with the counsel annually.

Gift Shop - Volunteers staff the gift shop three times a week. Various gifts and sundries are available for resident and family purchase.

Beautician Services - Beauty shop services are offered at LHCC by a licensed beautician 24 hours a week. Services are scheduled by the recreation department and paid for by residents.

Key Projects/Issues

- Leisure Services - Recreation Therapy provides leisure opportunities that are both independent and group events. Some of the structured programs include: music and entertainment, socials, parties, outings for meals, movies and shopping and community events as plays or civic events. The department also facilitates involvement in local clergy for religious services and visits. Recreation is a key component to making this a home for our residents.

- Community Partnerships - We have partnered with Lakeland School for student/resident programs and events and host the Lakeland School coffee shop at LHCC. We host a monthly luncheon with the Sheriff Office where we have lunch and learn about the various entities in their department. A new program this year organized with assistance from Volunteer Service and LHCC is “The Next Generation”. Students from the local high school visit once a week and learn about Long Term Care careers and opportunities and gain experience in communicating in a social manner with residents and professional staff. We are hoping to expand these programs in the future.
- **Staffing** - The department is undergoing the first big change in the past decade, due to staff retirements and positions eliminations. Changing from four full time positions down to two full time and two part time staff will bring significant changes to what programming is offered and when it is available. We are in the hiring process and hope to find the best candidates to start this transition. Another transition may need to take place when a decision is made about services provided in the C Wing.

- **Fundraising** - The department helps to facilitate donations from our community with fundraising events including things like the monthly lunches, raffles and the spaghetti dinner. Funds raised support programs that are not included in the operating budget. These fundraising activities may need to be expanded to address resident and program needs.

- **Beauty Shop Services** - The beauty shop services were originally eliminated as a service provided by LHCC staff during the plans to downsize the facility to 90 beds. It was the intent of the health care center to contract with an outside entity to provide traditional beauty salon services. The challenge for this department is the current number of resident’s requesting the service varies based on our census. While exploring this option we will need to consider the cost to the resident and the impact of the loss of an affordable option on the quality of life for those who cannot otherwise afford the service.

- **Gift Shop** - LHCC has seen a decline in users since the downsizing of residents. Volunteers staff the gift shop three times per week however the sales and needs of the volunteers have diminished. Alternatives to our traditional gift shop have to be considered including a traveling gift shop or a redesign of the service based on the needs of the new programming on the C wing. The challenge of resident trust fund availability will need to be taken into consideration as decisions are made.

- **Leisure Services for the C Wing** - Based on the new design of the C Wing we will need to determine if leisure services need to expand or changed. Considerations such as exercise space, ability to enter and return to building independently, usable outside space to offer shade, better lighting in the rooms for independent pursuits such as reading, crafting work, computer/ tablet pursuits as well as more reliable Wi-Fi connections throughout the building will need to be incorporated in the facility design.

- **Wheelchair Vans** - Lakeland Health Care Center has two vans that have been purchased with fundraisers and donated monies for the intent of recreational outings. One van is capable of transporting 6 residents in wheelchairs and 4 who are ambulatory. The other van is a minivan transporting up to two wheelchairs (depending on size) and 1-2 people who are ambulatory. Both vans have been utilized for outings lunch, shopping, Brewer, Cubs, Bucks sporting events, museum visits, fishing trips, visiting the fairs and festivals, and Ho Chunk or Potawatomi for gambling fun. The vans has also been utilized for home visits, discharge transportation and medical appointments when VIP services are unavailable. Use of the vehicles will have to be explored to maintain costs for transportation as other therapy service costs increase.

- **Trishaw** - Social Services staff partners with the Therapeutic Recreation Department to create our trishaw program, a worldwide program instituted by Cycling Without Age. The facility has obtained a wheelchair trishaw and has a two seater side by side trishaw on the way for our residents and family members. Trishaw bikes were obtained for the residents this year with the assistance from family donation and grants. This is an exciting opportunity to have interested resident and “pilots” (volunteer bike peddlers) venture out on to our county ground paths.
Social Service and Admissions

2020 Adopted Budget Summary

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<td>2020 Revenue</td>
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Key Personnel

- Mel Davis  
  Social Worker  
  741-3671
- Andrea Jacobs  
  Social Worker  
  741-3686
- Mary Stenzel  
  Admissions Coordinator  
  741-3684

Primary Programs

Social Service - Dedicated to advocating for and protecting both our long term and short-term residents and their individual rights and personal choices. Social services does this by creating and updating plans of care for the residents regarding their mood, cognition, and psychosocial needs. They provide individualized support to residents and their loved ones and help ensure the residents’ needs are met.

Family Counsel - Established to facilitate meetings that allow family members to be updated on facility happenings, provide education, and to communicate any concerns that they may have about the facility.

Admissions - Coordinates the acceptance and admission of all long term and short-term residents. Staff obtains all needed documentation to comply with state regulations for admission, facilitates communication of goals of care and maintains relationships with outside vendors, services, and hospital systems.

Key Projects/Issues

- **Behavior Management** - Social services staff are part of the behavioral management team at LHCC. The team monitors residents challenging behaviors and behavioral health signs and symptoms. The team makes recommendations for gradual dose reductions of psychotropic medication. Social services staff closely monitor residents by completing assessments quarterly, annually, and when a resident experiences a change of condition.

- **Grievance Process** - Social services investigates complaints by staff, residents, and family members through the grievance process. Staff works with the Ombudsman to promote resolutions if needed. Maintaining the safety and satisfaction of our residents and families continues to be a priority for the facility.

- **Guardianship/Power of Attorney** - Social services staff works with Walworth County corporation counsel to initiate guardianship for residents that are in need of decision makers. They also provide assistance in the creation of powers of attorney for health care and finances in order to reduce the need for future guardianship cases.
- **Virtual Dementia Training** - Social services staff encourages education to all regarding dementia care. The staff offers and facilitates the Virtual Dementia Experience for staff, family members, Walworth County employees and the community. This serves to improve dementia awareness in our community as well as connect LHCC to Walworth County residents seeking care now and in the future.

- **TRIAD of Walworth County** - Social services staff encourages safety for residents, families and community members. The TRIAD of Walworth County, an interdisciplinary team of professions, law enforcement, first responders, and seniors. The TRIAD's EZ-ID system, a system used for individuals at risk of wandering, is available to residents, family members, and the community. Leadership of our community TRIAD is managed by our nursing home social worker.

- **Admission** - The facility will be establishing admissions targets for number of residents and will work to increase the number of payer sources that are accepted within the facility to expand our accessibility to the community.

- **Family Counsel** - The counsel has been established as a place where family members can become informed of the changes within the facility, receive updates on new staff and other LHCC news, as well as have the opportunities to discuss concerns. In the past few years families have felt that the best place to become informed was at the Trustees meetings. By improving these meetings and building connections to facility staff we plan to create an open and direct dialog that keeps families informed and connected.

- **Discharge planning** - Social services staff work diligently to create a safe and fluid discharge for our short term residents that includes arranging home health, follow up appointments, prescription coverage, and community referrals. Social services staff work closely with resident’s families. We are adding a social worker to our rehab unit to facilitate effective discharge plans and increase follow-up care. Doing this should improve outcomes for the resident at home and improve our quality of care and community reputation.
Therapy

2020 Adopted Budget Summary

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Key Personnel
Kari Kay Program Director 741-3632

Primary Programs

In house Physical, Occupational and Speech therapy - Specializes in Occupational, Physical and Speech Therapy assisting residents to improve their strength and health while supporting a safe transition to home. Therapy Services are provided by RehabCare seven days a week to residents.

Outpatient Physical, Occupational and Speech therapy - Specialized Occupational, Physical and Speech Therapy provided following discharge from the facility assists former residents in improving their strength and health once they have made a safe transition to home.

Key Projects/Issues

- **Outpatient Care for Walworth County Employees** - The County’s health plan pays for outpatient therapies for participating employees. We are exploring utilizing LHCC’s outpatient therapy services for county’s employees. The close location of the service to employees would increase employee access to quality physical, occupational and speech therapy while decreasing the time an employee would be away from the work place during the week.

- **Restorative Care** - RehabCare is working to establish a strong collaboration with our restorative nurse and C.N.A. staff to assist in building effective programming. LHCC is looking to reorganize its restorative care program and dedicate staff to making sure that services are available daily. By implementing a strong program long term and short term rehab residents will be able to reach their goals faster. Restorative care programs that are provided daily receive higher MDS ratings which equate to increased reimbursement for better outcomes.

- **Increased Therapy Assessments and Referrals** - Currently therapy staff complete screens for all residents on a quarterly basis. Fall screens are completed on all residents and when staff notify therapy of concerns. The facilities goal is to increase our staff’s understanding of declines in function and when and how to notify therapy so that additional services can be provided to support the residents health and safety.

- **Successful Transitions Home** - The facility has worked to establish strong communication and an interdisciplinary team (IDT) approach to ensuring the highest functional outcomes. Short-term rehabilitation services focus care around providing high quality therapies before and after a resident returns home.
Chapter DHS 132

NURSING HOMES

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DHS 132.12 Scope.
DHS 132.13 Definitions.
DHS 132.14 Licensure.
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DHS 132.16 Quality assurance and improvement projects.

Subchapter II — Enforcement
DHS 132.21 Waivers and variances.

Subchapter III — Residents’ Rights and Protections
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DHS 132.33 Housing residents in locked units.

Subchapter IV — Management
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DHS 132.42 Employees.
DHS 132.44 Employee development.
DHS 132.45 Records.
DHS 132.46 Quality assessment and assurance.

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DHS 132.64 Rehabilitative services.
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DHS 132.695 Special requirements for facilities serving persons who are developmentally disabled.
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Subchapter VII — Physical Environment
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Subchapter VIII — Life Safety, Design and Construction
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DHS 132.812 Review for compliance with this chapter and the state building code.
DHS 132.815 Fees for plan reviews.
DHS 132.82 Life safety code.
DHS 132.83 Safety and systems.
DHS 132.84 Design.

DHS 132.11 Statutory authority. This chapter is promulgated under the authority of ss. 49.498 (14), 49.499 (2m), 50.02, 50.03, 50.095, and 50.098, Stats., to provide conditions of licensure for nursing homes.

History: Cr. Register, July, 1982, No. 319, eff. 8–1–82; CR 06–053: am. Register August 2007 No. 620, eff. 9–1–07.

DHS 132.12 Scope. All nursing homes licensed under s. 50.03, Stats., are subject to all the provisions of this chapter, except for those provisions that apply only to particular licensure categories, and except for those nursing homes regulated by ch. DHS 134. Nursing homes include those owned and operated by the state, counties, municipalities, or other public bodies. Nursing homes are also subject to the provisions in ch. 50, Stats., and chs. SPS 361 to 365, except s. SPS 361.31 (3). Federally certified nursing homes are also subject to the provisions contained in 42 CFR 483.

History: Cr. Register, July, 1982, No. 319, eff. 8–1–82; CR 06–053: am. Register August 2007 No. 620, eff. 9–1–07; correction made under s. 13.92 (4) (b) 7., Stats., Register January 2009 No. 637; correction made under s. 13.92 (4) (b) 7., Stats., Register January 2012 No. 673.

DHS 132.13 Definitions. In this chapter:
(1) “Abuse” has the meaning specified under s. DHS 13.03 (1).
(1m) “Advanced practice nurse prescriber” means a person who has been granted a certificate to issue prescription orders under s. 441.16 (2), Stats.
(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.
(3) “Department” means the Wisconsin department of health services.
(4) “Developmental disability” means intellectual disability or a related condition, such as cerebral palsy, epilepsy or autism, but excluding mental illness and infirmities of aging, which is:
(a) Manifested before the individual reaches age 22;
(b) Likely to continue indefinitely; and
(c) Results in substantial functional limitations in 3 or more of the following areas of major life activity:
1. Self-care;
2. Understanding and use of language;
3. Learning;
4. Mobility;
5. Self-direction; and
(5) “Dietitian” means a person who is any of the following:
(a) Certified under s. 448.78, Stats.
(b) Licensed or certified as a dietitian in another state.
(7) “Facility” means a nursing home subject to the requirements of this chapter.
(8) “Full-time” means at least 37.5 hours each week devoted to facility business.
(8m) “IMD” or “institution for mental diseases” means a facility that meets the definition of an institution for mental diseases under 42 CFR 435.1009.
(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.

(9) “Intermediate care facility” means a nursing home which is licensed by the department as an intermediate care facility to provide intermediate nursing care.

(10) “Intermediate nursing care” means basic care consisting of physical, emotional, social and other rehabilitative services under periodic medical supervision. This nursing care requires the skill of a registered nurse for observation and recording of reactions and symptoms, and for supervision of nursing care. Most of the residents have long-term illnesses or disabilities which may have reached a relatively stable plateau. Other residents whose conditions are stabilized may need medical and nursing services to maintain stability. Essential supportive consultant services are provided.

(10m) “Involuntary administration of psychotropic medication” means any of the following:

(a) Placing psychotropic medication in an individual’s food or drink with knowledge that the individual protests receipt of the psychotropic medication.

(b) Forcibly restraining an individual to enable administration of psychotropic medication.

(c) Requiring an individual to take psychotropic medication as a condition of receiving privileges or benefits.

(11) “Licensed practical nurse” means a person licensed as a licensed practical nurse under ch. 441, Stats.

(12) “Limited nursing care” means simple nursing care procedures required by residents with long-term illnesses or disabilities in order to maintain stability and which can be provided safely only by or under the supervision of a person no less skilled than a licensed practical nurse who works under the direction of a registered nurse. Supervision of the physical, emotional, social and rehabilitative needs of the resident is the responsibility of the appropriate health care provider serving under the direction of a physician.

(13m) “Neglect” has the meaning specified under s. DHS 13.03 (14).

(16) “Nurse” means a registered nurse or licensed practical nurse.

(17) “Nurse practitioner” means a registered professional nurse who meets the requirements of s. DHS 105.20 (1).

(18) “Nursing assistant” means a person who is employed primarily to provide direct care services to residents but is not registered or licensed under ch. 441, Stats.

(20) “Pharmacist” means a person registered as a pharmacist under ch. 450, Stats.

(21) “Physical therapist” means a person licensed to practice physical therapy under ch. 448, Stats.

(22) “Physician” means a person licensed to practice medicine or osteopathy under ch. 448, Stats.

(23) “Physician extender” means a person who is a physician’s assistant or a nurse practitioner acting under the general supervision and direction of a physician.

(24) “Physician’s assistant” means a person certified under ch. 448, Stats., to perform as a physician’s assistant.

(25) “Practitioner” means a physician, dentist, podiatrist or other person permitted by Wisconsin law to distribute, dispense and administer a controlled substance in the course of professional practice.

(25g) “Protest” means make more than one discernible negative response, other than mere silence, to the offer of, recommendation for, or other proffering of voluntary receipt of psychotropic medication. “Protest” does not mean a discernible negative response to a proposed method of administration of the psychotropic medication.

(25r) “Psychotropic medication” means a prescription drug, as defined in s. 450.01 (20), Stats., that is used to treat or manage a psychiatric symptom or challenging behavior.

(26) “Recoverative care” means care anticipated to be provided for a period of 90 days or less for a resident whose physician has certified that he or she is convalescing or recuperating from an illness or a medical treatment.

(27) “Registered nurse” means a person who holds a certification of registration as a registered nurse under ch. 441, Stats.

(28) “Resident” means a person cared for or treated in any facility on a 24-hour basis irrespective of how the person has been admitted to the facility.

(29) “Respite care” means care anticipated to be provided for a period of 28 days or less for the purpose of temporarily relieving a family member or other caregiver from his or her daily caregiving duties.

(30) “Short-term care” means recoverative care or respite care.

(31) “Skilled nursing facility” means a nursing home which is licensed by the department to provide skilled nursing services.

(32) (a) “Skilled nursing services” means those services furnished pursuant to a physician’s orders which:

1. Require the skills of professional personnel such as registered or licensed practical nurses; and

2. Are provided either directly by or under the supervision of these personnel.

(b) In determining whether a service is skilled, the following criteria shall be used:

1. The service would constitute a skilled service where the inherent complexity of a service prescribed for a resident is such that it can be safely and effectively performed only by or under the supervision of professional personnel;

2. The restoration potential of a resident is not the deciding factor in determining whether a service is to be considered skilled or unskilled. Even where full recovery or medical improvement is not possible, skilled care may be needed to prevent, to the extent possible, deterioration of the condition or to sustain current capacities; and

3. A service that is generally unskilled would be considered skilled where, because of special medical complications, its performance or supervision or the observation of the resident necessitates the use of skilled nursing personnel.

(34) “Supervision” means at least intermittent face-to-face contact between supervisor and assistant, with the supervisor instructing and overseeing the assistant, but does not require the continuous presence of the supervisor in the same building as the assistant.

(35) “Tour of duty” means a portion of the day during which a shift of resident care personnel are on duty.

(36) “Unit dose drug delivery system” means a system for the distribution of medications in which single doses of medications are individually packaged and sealed for distribution to residents.
(1m) LICENSURE AS AN INSTITUTION FOR MENTAL DISEASES. (a) Requirements. The department may grant a facility a license to operate as an institution for mental diseases if the following conditions are met:

1. The conversion of all or some of the beds within the facility will result in a physically identifiable unit of the facility, which may be a ward, contiguous wards, a wing, a floor or a building, and which is separately staffed;
2. The IMD shall have a minimum of 16 beds;
3. The conversion of beds to or from an IMD shall not increase the total number of beds within the facility; and
4. The facility has submitted an application under subs. (2) and (3) to convert all or a portion of its beds to an IMD and the department has determined that the facility is in substantial compliance with this chapter. A facility may not submit an application for conversion of beds to or from an IMD more than 2 times a year.

(b) Exclusion. An existing facility applying to be licensed in whole or part as an IMD is not subject to prior review under ch. 150, Stats.

(2) APPLICATION. Application for a license shall be made on a form provided by the department.

Note: To obtain a copy of the application form for a license to operate a nursing home, write: Division of Quality Assurance, P.O. Box 2969, Madison, Wisconsin 53701−2969.

(3) REQUIREMENTS FOR LICENSURE. (a) In every application the license applicant shall provide the following information:

1. The identities of all persons or business entities having the authority, directly or indirectly, to direct or cause the direction of the management or policies of the facility;
2. The identities of all persons or business entities having any ownership interest whatsoever in the facility, whether direct or indirect, and whether the interest is in the profits, land or building, including owners of any business entity which owns any part of the land or building;
3. The identities of all creditors holding a security interest in the premises, whether land or building; and
4. In the case of a change of ownership, disclosure of any relationship or connection between the old licensee and the new licensee, and between any owner or operator of the old licensee and the owner or operator of the new licensee, whether direct or indirect.

5. Disclosure of any financial failures directly or indirectly involving any person or business entity identified in the application concerning the operation of a residential or health care facility that resulted in any debt consolidation or restructuring, insolvency proceeding or mortgage foreclosure, or in the closing of a residential or health care facility or the moving of its residents. In this subdivision “insolvency” means bankruptcies, receiverships, assignments for the benefit of creditors, and similar court−supervised proceedings.

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

(bm) The applicant shall provide information to demonstrate that any person having the authority to directly manage the operation of the facility has the education, training or experience to operate and manage a health care facility to provide for the health, safety, and welfare of its residents in substantial compliance with state and federal requirements.

(c) The applicant shall submit evidence to establish that he or she has sufficient resources to permit operation of the facility for a period of 6 months.

(d) No license may be issued unless and until the applicant has supplied all information requested by the department.

(4) REVIEW OF APPLICATION. (a) Investigation. After receiving a complete application, the department shall investigate the applicant to determine if the applicant is fit and qualified to be a licensee and to determine if the applicant is able to comply with this chapter.

(b) Fit and qualified. In making its determination of the applicant’s fitness, the department shall review the information contained in the application and shall review any other documents that appear to be relevant in making that determination, including survey and complaint investigation findings for each facility with which the applicant is affiliated or was affiliated during the past 5 years. The department shall consider at least the following:

1. Any class A or class B violation, as defined under s. 50.04, Stats., issued by the department relating to the applicant’s operation of a residential or health care facility in Wisconsin;
2. Any adverse action against the applicant or any person or business entity named in the application by the licensing agency of this state or any other state relating to the applicant’s or any person or business entity named in the application’s operation of a residential or health care facility. In this subdivision, “adverse action” means an action initiated by a state licensing agency which resulted in a conditional license, the placement of a monitor or the appointment of a receiver, or the denial, suspension, revocation or revocation of the license or a residential or health care facility operated by the applicant or any person or business entity named in the application;
3. Any adverse action against the applicant or any person or business entity named in the application based upon noncompliance with federal statutes or regulations in the applicant’s or any person or business entity named in the application’s operation of a residential or health care facility in this or any other state. In this subdivision, “adverse action” means an action by a state or federal agency which resulted in the imposition of Category 3 remedies pursuant to 42 CFR sec. 488.408 (e), placement of a state monitor or the appointment of a receiver, transfer of residents, or the denial, non−renewal, cancellation or termination of certification of a residential or health care facility operated by the applicant;
4. The frequency of noncompliance with state licensure and federal certification laws in the applicant’s operation of a residential or health care facility in this or any other state;
5. Any denial, suspension, enjoining or revocation of a license the applicant had as a health care provider as defined in s. 146.81 (1), Stats., or any conviction of the applicant for providing health care without a license;
6. Any conviction of the applicant for a crime involving neglect or abuse of patients or of the elderly or involving assaultive behavior or wanton disregard for the health or safety of others;
7. Any conviction of the applicant for a crime related to the delivery of health care services or items;
8. Any conviction of the applicant for a crime involving controlled substances;
9. Any knowing or intentional failure or refusal by the applicant to disclose required ownership information; and
10. Any prior financial failures of the applicant and any person and related business entity identified in the application concerning the operation of a residential or health care facility that resulted in any debt consolidation or restructuring, insolvency proceeding or mortgage foreclosure or in the closing of residential or health care facility or the moving of its residents. “Insolvency” has the meaning provided in s. DHS 132.14 (3) (a) 5.

(5) ACTION BY THE DEPARTMENT. Within 60 days after receiving a complete application for a license, the department shall either approve the application and issue a license or deny the application. The department shall deny a license to any applicant who has a history, determined under sub. (4) (b) 1. to 4., of substantial noncompliance with federal or this state’s or any state’s nursing home requirements, or who fails under sub. (4) (b) 5. to 10., to qualify for a license. If the application for a license is denied, the department shall give the applicant reasons, in writing,
for the denial and shall identify the process for appealing the denial.

(6) TYPES OF LICENSE. (a) Probationary license. If the applicant has not been previously licensed under this chapter or if the facility is not in operation at the time application is made, the department shall issue a probationary license. A probationary license shall be valid for 12 months from the date of issuance unless sooner suspended or revoked under s. 50.03 (5), Stats. If the applicant is found to be fit and qualified under sub. (4) and in substantial compliance with this chapter, the department shall issue a regular license upon expiration of the probationary license. The regular license is valid indefinitely unless suspended or revoked.

(b) Regular license. If the applicant has been previously licensed, the department shall issue a regular license if the applicant is found to be in substantial compliance with this chapter. A regular license is valid indefinitely unless suspended or revoked.

(7) SCOPE OF LICENSE. (a) The license is issued only for the premises and the persons named in the license application, and may not be transferred or assigned by the licensee.

(b) The department shall at any time, including maximum bed capacity and the level of care that may be provided, and any other limitations that the department considers appropriate and necessary taking all facts and circumstances into account.

(c) A licensee shall fully comply with all requirements and restrictions of the license.

(8) REPORTING. Every 12 months, on a schedule determined by the department, a nursing home licensee shall submit a report to the department in the form and containing the information that the department requires, including payment of the fee required under s. 50.135 (2) (a), Stats. If a complete report is not timely filed, the department shall issue a warning to the licensee. If a nursing home licensee who has not filed a timely report fails to submit a complete report to the department within 60 days after the date established under the schedule determined by the department, the department may revoke the license.

(9) REPORTING INVOLUNTARY ADMINISTRATION OF PSYCHOTROPIC MEDICATION. The licensee shall provide, in a format approved by the department, information required by the department to the facility’s compliance with s. 55.14, Stats., relating to involuntary administration of psychotropic medication to a resident.

History: Cr. Register, July, 1982, No. 319, eff. 8–1–82; cr. (5), Register, November, 1985, No. 359, eff. 12–1–85; r. and recr., Register, January, 1987, No. 373, eff. 2–1–87; cr. (2), Register, May, 1987, No. 433, eff. 9–1–87; cr. (3), Register, July, 1989, No. 350, eff. 9–1–89; cr. (4), Register, January, 1991, No. 359, eff. 3–1–91; cr. (5), Register, October, 1991, No. 438, eff. 7–1–91; am. (1) (a) (am. 5, and (5), Register, May, 1993, No. 337, eff. 5–1–93; cr. (2), Register, October, 1999, No. 498, eff. 3–1–99; cr. (3), Register, October, 1999, No. 406, eff. 11–1–99; am. (6), Register, February, 2000, No. 438, eff. 9–1–00; cr. (4), Register, September, 2000, No. 536, eff. 9–1–00; cr. (5), Register, September, 2000, No. 536, eff. 9–1–00; cr. (6), Register, October, 2000, No. 546, eff. 9–1–00; cr. (7), Register, August, 2000, No. 556, eff. 9–1–00; cr. (8), Register, August, 2000, No. 556, eff. 9–1–00; CR 06–053: cr. (1) (a) 5. and (9), Register, February, 2007, No. 381, eff. 9–1–07; CR 07–042: cr. (2), Register October 2007 No. 622, eff. 11–1–07.

DHS 132.15 Certification for medical assistance. For requirements for certification under the medical assistance program, see ch. DHS 105.

History: Cr. Register, July, 1982, No. 319, eff. 8–1–82; correction made under s. 139.22 (6) (b) 7., Stats., Register January 2009 No. 637.

DHS 132.16 Quality assurance and improvement projects. (1) FUNDS. Pursuant to ss. 49.499 (2m) and 50.04 (8), Stats., the department may, from the appropriation under s. 20.435 (6) (g), Stats., distribute funds for innovative projects designed to protect the property and the health, safety, and welfare of residents in a facility and to improve the efficiency and cost effectiveness of the operation of a facility so as to improve the quality of life, care, and treatment of its residents.

(2) QUALITY ASSURANCE AND IMPROVEMENT COMMITTEE. (a) The department shall establish and maintain a quality assurance and improvement committee to review proposals and award funds to facilities for innovative projects approved by the committee under sub. (3).

(b) 1. Committee members shall be appointed by the secretary for a term of up to 12 months and include, at the secretary’s discretion, one or more representatives from the department, the board on aging and long term care, disability, aging and long term care advocates, facilities, and other persons with an interest or expertise in quality improvement or delivery of long term care services. Facility members shall comprise at least half of the committee membership.

2. A representative’s term may be extended at the secretary’s discretion.

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

(a) Meet at least annually.

(b) Develop and propose for the secretary’s approval criteria for review and approval of projects proposed under this section.

(c) Considering the criteria approved by the secretary under par. (b), review proposals submitted by facilities under this section and approve submitted proposals, defer a determination pending additional information, or deny approval of proposals submitted.

(d) Identify areas of need within a facility or corporation, the state or regions as projects to be addressed.

(e) Develop opportunities and strategies for general improvement concerning licensed facilities.

(f) Encourage proposals that develop innovative cost-effective methods for improving the operation and maintenance of facilities and that protect residents’ rights, health, safety and welfare and improve residents’ quality of life.

(g) Disseminate within the department and to facilities and other interested individuals and organizations the information learned from approved projects.

(h) Prepare an annual report to the secretary.

(4) A decision under sub. (3) (c) to defer or deny approval of or award funds for a proposal may not be appealed.

Subchapter II — Enforcement

DHS 132.21 Waivers and variances. (1) DEFINITIONS. As used in this section:

(a) “Waiver” means the grant of an exemption from a requirement of this chapter.

(b) “Variance” means the granting of an alternate requirement in place of 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 resident and that:

(a) Strict enforcement of a requirement would result in unreasonable hardship on the facility or on a resident; or

(b) An alternative to a rule, including new concepts, methods, procedures, techniques, equipment, personnel qualifications, or the conducting of pilot projects, is in the interests of better care or management.

(3) PROCEDURES. (a) Applications. 1. All applications for waiver or variance from the requirements 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 facility proposes;

d. The reasons for the request; and

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

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

3. The department may require additional information from the facility prior to acting on the request.
(b) Grants and denials. 1. The department shall grant or deny each request for waiver or variance in writing. Notice of denials shall contain the reasons for 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 variance may be modified upon agreement between the department and a facility.
3. The department may impose such conditions on the granting of a waiver or variance which it deems necessary.
4. The department may limit the duration of any waiver or variance.

(c) Hearings. 1. Denials of waivers or variances may be contested by requesting a hearing as provided by ch. 227, Stats.
2. The licensee 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 health, safety or welfare of the residents; or
2. The facility has failed to comply with the variance as granted; or
3. The licensee 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, July, 1982, No. 319, eff. 8−1−82; am. (3) (a) 1. d., Register, January, 1987, No. 373, eff. 2−1−87.

Subchapter III — Residents’ Rights and Protections

DHS 132.31 Rights of residents. (1) RESIDENTS’ RIGHTS. Every resident shall have the right to all of the following:

(d) Admission information. Be fully informed in writing, prior to or at the time of admission, of all services and the charges for these services, and be informed in writing, during the resident’s stay, of any changes in services available or in charges for services, as follows:

1. No person may be admitted to a facility without that person or that person’s guardian or any other responsible person designated in writing by the resident signing an acknowledgement of having received a statement of information before or on the day of admission which contains at least the following information or, in the case of a person to be admitted for short−term care, the information required under s. DHS 132.70 (3):
   a. An accurate description of the basic services provided by the facility, the rate charged for those services, and the method of payment for them;
   b. Information about all additional services regularly offered but not included in the basic services. The facility shall provide information on where a statement of the fees charged for each of these services can be obtained. These additional services include pharmacy, x−ray, beautician and all other additional services regularly offered to residents or arranged for residents by the facility;
   c. The method for notifying residents of a change in rates or fees;
   d. Terms for refunding advance payments in case of transfer, death or voluntary or involuntary discharge;
   e. Terms of holding and charging for a bed during a resident’s temporary absence;
   f. Conditions for involuntary discharge or transfer, including transfers within the facility;
   g. Information about the availability of storage space for personal effects; and
   h. A summary of residents’ rights recognized and protected by this section and all facility policies and regulations governing resident conduct and responsibilities.

2. No statement of admission information may be in conflict with any part of this chapter.

(p) Nondiscriminatory treatment. Be free from discrimination based on the source from which the facility’s charges for the resident’s care are paid, as follows:

1. No facility may assign a resident to a particular wing or other distinct area of the facility, whether for sleeping, dining or any other purpose, on the basis of the source or amount of payment, except that a facility only part of which is certified for Medicare reimbursement under 42 USC 1395 is not prohibited from assigning a resident to the certified part of the facility because the source of payment for the resident’s care is Medicare.

2. Facilities shall offer and provide an identical package of basic services meeting the requirements of this chapter to all individuals regardless of the sources of a resident’s payment or amount of payment. Facilities may offer enhancements of basic services, or enhancements of individual components of basic services, provided that these enhanced services are made available at an identical cost to all residents regardless of the source of a resident’s payment. A facility which elects to offer enhancements to basic services to its residents must provide all residents with a detailed explanation of enhanced services and the additional charges for these services pursuant to par. (d) 1. b.

3. If a facility offers at extra charge additional services which are not covered by the medical assistance program under ss. 49.43 to 49.497, Stats., and chs. DHS 101 to 108, it shall provide them to any resident willing and able to pay for them, regardless of the source from which the resident pays the facility’s charges.

4. No facility may require, offer or provide an identification tag for a resident or any other item which discloses the source from which the facility’s charges for that resident’s care are paid.

(4) NOTIFICATION. (a) Serving notice. Facility staff shall verbally explain to each new resident and to that person’s guardian, if any, prior to or at the time of the person’s admission to the facility, these rights and the facility’s policies and regulations governing resident conduct and responsibilities.

(b) Amendments. All amendments to the rights provided under this section and all amendments to the facility regulations and policies governing resident conduct and responsibilities require notification of each resident or guardian, if any, or any other responsible person designated in writing by the resident, at the time the amendment is put into effect. The facility shall provide the resident or guardian, if any, or any other responsible person designated in writing by the resident and each member of the facility’s staff with a copy of all amendments.

(6) COMPLAINTS. Any person may file a complaint with a licensee or the department regarding the operation of a facility. Complaints may be made orally or in writing.

History: Cr. Register, July, 1982, No. 319, eff. 8−1−82; r. and recre. (1) (c), (d), (i), (m), (2) to (4), renum. (5) to (6), cr. (1) (p) and (5), Register, January, 1987, No. 373, eff. 2−1−87; am. (1) (d) 1. intro., (k) and (4) (b), Register, February, 1989, No. 396, eff. 3−1−89; am. (6) (e), Register, August, 2000, No. 536, eff. 9−1−00; CR 04−053: am. (1) (k) Register October 2004 No. 586, eff. 11−1−04; correction in (2) made under s. 13.93 (2m) (b) 7., Stats.; Register August 2007 No. 620; CR 06−053: renum. (6) (a) to be (6), r. (1) (a) to (c), (e) to (o), (2), (3), (4) (c), (5) and (6) (b) to (c), am. (1) (intro.) and (4) (a), Register August 2007 No. 620, eff. 9−1−07; correction in (1) (p) 3. made under s. 13.92 (4) (b) 7., Stats.; Register January 2009 No. 637.

DHS 132.33 Housing residents in locked units. (1) DEFINITIONS. As used in this section:

(a) “Locked unit” means a ward, wing or room which is designated as a protective environment and is secured in a manner that prevents a resident from leaving the unit at will. A physical restraint applied to the body is not a locked unit. A facility locked for purposes of security is not a locked unit, provided that residents may exit at will.

(b) “Consent” means a written, signed request given without duress by a resident capable of understanding the nature of the locked unit, the circumstances of one’s condition, and the meaning of the consent to be given.

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(2) **Restriction.** Except as otherwise provided by this section, no resident may be housed in a locked unit. Physical or chemical restraints or repeated use of emergency restraint under sub. (5) may not be used to circumvent this restriction. Placement in a locked unit shall be based on the determination that this placement is the least restrictive environment consistent with the needs of the person.

**Note:** For requirements relating to the use of physical and chemical restraints, including locked rooms, see s. DHS 132.60 (6).

(3) **Placement.** (a) A resident may be housed in a locked unit under any one of the following conditions:

1. The resident consents under sub. (4) to being housed on a locked unit;
2. The court that protectively placed the resident under s. 55.15, Stats., made a specific finding of the need for a locked unit;
3. The resident has been transferred to a locked unit pursuant to s. 55.15, Stats., and the medical record contains documentation of the notice provided to the guardian, the court and the agency designated under s. 55.02, Stats.; or
4. In an emergency governed by sub. (5).

(b) A facility may transfer a resident from a locked unit to an unlocked unit without court approval pursuant to s. 55.15, Stats., if it determines that the needs of the resident can be met on an unlocked unit. Notice of the transfer shall be provided as required under s. 55.15, Stats., and shall be documented in the resident’s medical record.

(4) **Consent.** (a) A resident may give consent to reside in a locked unit.

(b) The consent of par. (a) shall be effective only for 90 days from the date of the consent, unless revoked pursuant to par. (c). Consent may be renewed for 90–day periods pursuant to this subsection.

(c) The consent of par. (a) may be revoked by the resident at any time. The resident shall be transferred to an unlocked unit promptly following revocation.

(5) **Emergencies.** In an emergency, a resident may be confined in a locked unit if necessary to protect the resident or others from injury or to protect property, provided the facility immediately attempts to notify the physician for instructions. A physician’s order for the confinement must be obtained within 12 hours. No resident may be confined for more than an additional 72 hours under order of the physician.

**History:** Cr. Register, July, 1982, No. 319, eff. 8–1–82; am. (1) (a) and (2), t. and recr. (3), Register, January, 1987, No. 373, eff. 2–1–87; corrections in (3) (a) 2, 3. and (b) made under s. 13.93 (2m) (b) 7, Stats., Register October 2007 No. 622.

### Subchapter IV — Management

**DHS 132.41** **Administrator.** (1) **Statutory Reference.** Section 50.04 (2), Stats., requires that a nursing home be supervised by an administrator licensed under ch. 456, Stats. Supervision shall include, but not be limited to, taking all reasonable steps to provide qualified personnel to assure the health, safety, and rights of the residents.

(2) **Full–time Administrator.** Every nursing home shall be supervised full–time by an administrator licensed under ch. 456, Stats., except:

(a) **Multiple Facilities.** If more than one nursing home or other licensed health care facility is located on the same or contiguous property, one full–time administrator may serve all the facilities;

(b) **Small Homes.** A facility licensed for 50 beds or less shall employ an administrator for at least 4 hours per day on each of 5 days per week. No such administrator shall be employed in more than 2 nursing homes or other health care facilities.

(4) **Change of Administrator.** (a) **Termination of Administrator.** Except as provided in par. (b), no administrator shall be terminated unless recruitment procedures are begun immediately.

(b) **Replacement of Administrator.** If it is necessary immediately to terminate an administrator, or if the licensee loses an administrator for other reasons, a replacement shall be employed or designated as soon as possible within 120 days of the vacancy.

(c) **Temporary Replacement.** During any vacancy in the position of administrator, the licensee shall employ or designate a person competent to fulfill the functions of an administrator.

(d) **Notice of Change of Administrator.** When the licensee loses an administrator, the licensee shall notify the department within 2 working days of loss and provide written notification to the department of the name and qualifications of the person in charge of the facility during the vacancy and the name and qualifications of the replacement administrator, when known.

**Note:** See s. 50.04 (2), Stats.

**History:** Cr. Register, July, 1982, No. 319, eff. 8–1–82; CR 06–053: r. (3) Register August 2007 No. 620, eff. 9–1–07.

**DHS 132.42 Employees.** (1) **Definition.** In this section, “employee” means anyone directly employed by the facility on other than a consulting or contractual basis.

(2) **PhysiCAL Health Certifications.** (a) **New Employees.** Every employee shall be certified in writing by a physician, physical therapist assistant or an 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. Exposure to a communicable disease may be to any facility, 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).

(4) **Disease Surveillance and Control.** When an employee or prospective employee has a communicable disease that may result in the transmission of the communicable disease, he or she may not perform employment duties in the facility 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 or non–hiring of an employee based solely on an employee having an infectious disease, illness or condition.

(5) **Volunteers.** Facilities may use volunteers provided that the volunteers receive the orientation and supervision necessary to assure resident health, safety, and welfare.

**History:** Cr. Register, July, 1982, No. 319, eff. 8–1–82; am. (3) (a) and (4), Register, January, 1987, No. 373, eff. 2–1–87; CR 03–033: am. (3) (a), t. and recr. (4) Register December 2003 No. 576, eff. 1–1–04; CR 04–053: am. (3) and (4) and Register October 2008 No. 586, eff. 11–1–04; CR 06–033: r. (2) Register August 2007 No. 620, eff. 9–1–07.

**DHS 132.44 Employee Development.** (1) **New Employees.** (a) **Orientation for all Employees.** Except in an emergency, before performing any duties, each new employee, including temporary help, shall receive appropriate orientation to the facility and its policies, including, but not limited to, policies relating to fire prevention, accident prevention, and emergency procedures. All employees shall be oriented to residents’ rights under s. DHS 132.31 and to their position and duties by the time they have worked 30 days.

(b) **Assignments.** Employees shall be assigned only to resident care duties consistent with their training.

(2) **Continuing Education.** (a) **Nursing Inservice.** The facility shall require employees who provide direct care to residents to attend educational programs designed to develop and improve the skill and knowledge of the employees with respect to the needs of the facility’s residents, including rehabilitative therapy, oral
DHS 132.45 Records. (1) GENERAL. The administrator or administrator’s designee shall provide the department with any information required to document compliance with ch. DHS 132 and ch. 50, Stats., and shall provide reasonable means for examining records and gathering the information.

(2) PERSONNEL RECORDS. A separate record of each employee shall be maintained, be kept current, and contain sufficient information to support assignment to the employee’s current position and duties.

(3) MEDICAL RECORDS — STAFF. Duties relating to medical records shall be completed in a timely manner.

(4) MEDICAL RECORDS — GENERAL. (c) Unit record. A unit record shall be maintained for each resident and day care client.

(f) Retention and destruction. 1. An original medical record and legible copy or copies of court orders or other documents, if any, authorizing another person to speak or act on behalf of this resident shall be retained for a period of at least 5 years following a resident’s discharge or death when there is no requirement in state law. All other records required by this chapter shall be retained for a period of at least 2 years.

2. A facility shall arrange for the storage and safekeeping of records for the periods and under the conditions required by this paragraph in the event the facility closes.

3. If the ownership of a facility changes, the medical records and indexes shall remain with the facility.

(g) Records documentation. 1. All entries in medical records shall be accurate, legible, permanently recorded, dated, and authenticated with the name and title of the person making the entry.

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 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.

3. Symbols and abbreviations may be used in medical records if approved by a written facility policy which defines the symbols and abbreviations and which controls their use.

5) MEDICAL RECORDS — CONTENT. Except for persons admitted for short-term care, to whom s. DHS 132.70 (7) applies, each resident’s medical record shall contain:

(a) Identification and summary sheet.

(b) Physician’s documentation. 1. An admission medical evaluation by a physician or physician extender, including:

a. A summary of prior treatment;

b. Current medical findings;

c. Diagnoses at the time of admission to the facility;

d. The resident’s rehabilitation potential;

e. The results of the physical examination required by s. DHS 132.52 (3); and

f. Level of care;

2. All physician’s orders including, when applicable, orders concerning:

a. Admission to the facility as required by s. DHS 132.52 (a);

b. Medications and treatments as specified by s. DHS 132.60 (5);

c. Diets as required by s. DHS 132.63 (4);

d. Rehabilitative services as required by s. DHS 132.64 (2);

e. Limitations on activities;

f. Restraint orders as required by s. DHS 132.60 (6); and

g. Discharge or transfer as required by s. DHS 132.53;

3. Physician progress notes following each visit.

4. Annual physical examination, if required; and

5. Alternate visit schedule, and justification for such alternate visits.

(c) Nursing service documentation. 1. A history and assessment of the resident’s nursing needs as required by s. DHS 132.52;

2. Initial care plan as required by s. DHS 132.52 (4), and the care plan required by s. DHS 132.60 (8);

3. Nursing notes are required as follows:

a. For residents requiring skilled care, a narrative nursing note shall be required as often as needed to document the resident’s condition, but at least weekly; and

b. For residents not requiring skilled care, a narrative nursing note shall be required as often as needed to document the resident’s condition, but at least every other week;

4. In addition to subds. 1., 2., and 3., nursing documentation describing:

a. The general physical and mental condition of the resident, including any unusual symptoms or actions;

b. All incidents or accidents including time, place, details of incident or accident, action taken, and follow-up care;

c. The administration of all medications (see s. DHS 132.60 (5) (d)), the need for PRN medications and the resident’s response, refusal to take medication, omission of medications, errors in the administration of medications, and drug reactions;

d. Food and fluid intake, when the monitoring of intake is necessary;

e. Any unusual occurrences of appetite or refusal or reluctance to accept diets;

f. Summary of restorative nursing measures which are provided;

g. Summary of the use of physical and chemical restraints.

h. Other non-routine nursing care given;

i. The condition of a resident upon discharge; and

j. The time of death, the physician called, and the person to whom the body was released.

(d) Social service records. Notes regarding pertinent social data and action taken.

(e) Activities records. Documentation of activities programming, a summary of attendance, and quarterly progress notes.

(f) Rehabilitative services. 1. An evaluation of the rehabilitative needs of the resident; and

2. Progress notes detailing treatment given, evaluation, and progress.

(h) Dental services. Records of all dental services.

(i) Diagnostic services. Records of all diagnostic tests performed during the resident’s stay in the facility.

(j) Plan of care. Plan of care required by s. DHS 132.60 (8).

(k) Authorization or consent. A photocopy of any court order or other document authorizing another person to speak or act on
behalf of the resident and any resident consent form required under this chapter, except that if the authorization or consent form exceeds one page in length an accurate summary may be substituted in the resident record and the complete authorization or consent form shall in this case be maintained as required under sub. 

(6) (i). The summary shall include:

1. The name and address of the guardian or other person having authority to speak or act on behalf of the resident;
2. The date on which the authorization or consent takes effect and the date on which it expires;
3. The express legal nature of the authorization or consent and any limitations on it; and
4. Any other factors reasonably necessary to clarify the scope and extent of the authorization or consent.

(L) Discharge or transfer information. Documents, prepared upon a resident’s discharge or transfer from the facility, summarizing, when appropriate:

1. Current medical findings and condition;
2. Final diagnoses;
3. Rehabilitation potential;
4. A summary of the course of treatment;
5. Nursing and dietary information;
6. Ambulation status;
7. Administrative and social information; and
8. Needed continued care and instructions.

(6) OTHER RECORDS. The facility shall retain:

(a) Dietary records. All menus and therapeutic diets;
(b) Staffing records. Records of staff work schedules and time worked;
(c) Safety tests. Records of tests of fire detection, alarm, and extinguishment equipment;
(d) Resident census. At least a weekly census of all residents, indicating numbers of residents requiring each level of care;
(e) Professional consultations. Documentation of professional consultations by:
   - A dietitian, if required by s. DHS 132.63 (2) (b);
   - A registered nurse, if required by s. DHS 132.62 (2); and
   - Others, as may be used by the facility;
(f) Inservice and orientation programs. Subject matter, instructors and attendance records of all inservice and orientation programs;
(g) Transfer agreements. Transfer agreements, unless exempt under s. DHS 132.53 (4);
(h) Funds and property statement. All menus and therapeutic diets;

History: Cr. Register, July, 1982, No. 319, eff. 8−1−82; am. (1) (3) c) (5) intro., (b) 1. intro. and c), 2. a. and d), 3. (c), 1 and 2., (d) 1., (e), (f) 1. and g), (6) g), remum. (4) (a) 2. and (b) 1. (e), (6) h) to be (4) c) to g), (5) d) and (6) i) and am. (5) (L), cr. (4) (a) and (b), (5) e) and (6) h), Register, January, 1987, No. 373, eff. 2−1−87; CR 04−053: cr. and recr. (3) and (5) d), am. (4) (g) 2. and (5) e), r. (5) g) Register October 2004 No. 386, eff. 11−1−04; CR 06−053: r. (4) (a), (b) and (d), (c) and (f) 1. and 3., am. (4) f) 2. (g), (5) b) 3. and 5., (c) 4. g., and (6) h), remum. (4) f) 2., 4. and 5. to be (4) f) 1. 2. and 3., Register August 2007 No. 620, eff. 9−1−07.

DHS 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.

History: CR 04−053: cr. Register October 2004 No. 586, eff. 11−1−04.

Subchapter V — Admissions, Retentions and Removals

DHS 132.51 LIMITATIONS ON ADMISSIONS AND PROGRAMS.

(a) LICENSE LIMITATIONS. (a) Bed capacity. No facility may house more residents than the maximum bed capacity for which it is licensed. Persons participating in a day care program are not residents for purposes of this chapter.

(b) Care levels. 1. No person who requires care greater than that which the facility is licensed to provide may be admitted to or retained in the facility.

2. No resident whose condition changes to require care greater than that which the facility is licensed to provide shall be retained.

(c) Other conditions. The facility shall comply with all other conditions of the license.

(2) OTHER LIMITATIONS ON ADMISSIONS. (a) Persons requiring unavailable services. Persons who require services which the facility does not provide or make available shall not be admitted or retained.

(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. DHS 145 to the local public health officer or to the department’s bureau of communicable disease.

Note: For a copy of ch. DHS 145 which includes a list of the communicable diseases which must be reported, write the Bureau of Public Health, P.O. Box 309, Madison, WI 53701 (phone 608−267−9003). There is no charge for a copy of ch. DHS 145. The referenced publications, ‘Guideline for Isolation Precautions in Hospitals and Guideline for Infection Control in Hospital Personnel’ (HHS Publication No. (CSC) 83−8314) and ‘Universal Precautions for Prevention of . . . Bloodborne Pathogens in Health Care Settings’, may be purchased from the Superintendent of Documents, Washington D.C. 20402, and is available for review in the office of the Department’s Division of Quality Assurance and the Legislative Reference Bureau.

(c) Abusive or destructive residents. 1. Notwithstanding s. DHS 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.

(d) Developmental disabilities. 1. No person who has a developmental disability may be admitted to a facility unless the facility

Published under s. 35.93, Stats. Updated on the first day of each month. Entire code is always current. The Register date on each page is the date the chapter was last published.
(3) Medical examination and evaluation.  (a) Examination.  Each resident shall have a physical examination by a physician or physician extender within 48 hours following admission unless an examination was performed within 15 days before admission.

(b) Evaluation.  Within 48 hours after admission the physician or physician extender shall complete the resident’s medical history and physical examination record.

Note:  For admission of residents with communicable disease, see s. DHS 132.51 (2) (h).

(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. DHS 132.60 (8).

Note:  For care planning requirements, see s. DHS 132.60 (8).

(7) Family care information and referral.  If the secretary of the department has certified that a resource center, as defined in s. DHS 10.13 (42), is available for the facility under s. DHS 10.71, the facility shall provide information to prospective residents and refer residents and prospective residents to the aging and disability resource center as required under s. 50.04 (2g) to (2i), Stats., and s. DHS 10.73.

History:  Cr. Register, July, 1982, No. 319, eff. 8−1−82; renum. (1) to (5) to be (2) to (6) and am. (2) and (3), cr. (1), Register, January, 1987, No. 373, eff. 2−1−87; cr. (7), Register, October, 2000, No. 538, eff. 11−1−00; CR 03−033: am. (2) (c) Register December 2003 No. 576, eff. 1−1−04; CR 04−053: r. and recr. (2) (b) 1. Register December 2003 No. 576, eff. 1−1−04; CR 04−053: r. and recr. (2) (b) 1. Register December 2003 No. 576, eff. 1−1−04; CR 04−053: r. and recr. (2) (b) 1. Register December 2003 No. 576, eff. 1−1−04; CR 04−053: r. and recr. (2) (b) 1. Register December 2003 No. 576, eff. 1−1−04; CR 04−053: r. and recr. (2) (b) 1. Register December 2003 No. 576, eff. 1−1−04.

DHS 132.53 Transfers and discharges.  (1) Scope.  This section shall apply to all resident transfers and discharges, except that in the event of conflict with s. 49.45 (6e) (c) and (d), 49.498 (4) or 50.03 (5m) or (14), Stats., the relevant statutory requirement shall apply.

(2) Conditions.  (a) Prohibition and exceptions.  No resident may be discharged or transferred from a facility, except:

1. Upon the request or with the informed consent of the resident or guardian;
2. For nonpayment of charges, following reasonable opportunity to pay any deficiency;
3. If the resident requires care other than that which the facility is licensed to provide;
4. If the resident requires care which the facility does not provide and is not required to provide under this chapter;
5. For medical reasons as ordered by a physician;
6. In case of a medical emergency or disaster;
7. If the health, safety or welfare of the resident or other residents is endangered, as documented in the resident’s clinical record;
8. If the resident does not need nursing home care;
9. If the short−term care period for which the resident was admitted has expired; or
10. As otherwise permitted by law.

(b) Alternate placement.  1. Except for transfers or discharges under par. (a) 2. and 6., for nonpayment or in a medical emergency, no resident may be involuntarily transferred or discharged unless an alternative placement is arranged for the resident.  The resident shall be given reasonable advance notice of any planned transfer or discharge and an explanation of the need for and alternatives to the transfer or discharge except when there is a medical emergency.  The facility, agency, program or person to which the resident is transferred shall have accepted the resident for transfer in advance of the transfer, except in a medical emergency.
2. No resident may be involuntarily transferred or discharged under par. (a) 2. for nonpayment of charges if the resident meets both of the following conditions:

DHS 132.52 Procedures for admission.  (2) Physician’s orders.  No person may be admitted as a resident except upon:

(a) Order of a physician;
(b) Receipt of information from a physician, before or on the day of admission, about the person’s current medical condition and diagnosis, and receipt of a physician’s initial plan of care and orders from a physician for immediate care of the resident; and
(c) Receipt of certification in writing from a physician, physician assistant or advanced practice nurse prescriber that the individual has been screened for the presence of clinically apparent communicable disease that could be transmitted to other residents or employees, 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.
a. He or she is in need of ongoing care and treatment and has not been accepted for ongoing care and treatment by another facility or through community support services; and
b. The funding of the resident’s care in the nursing home under s. 49.45 (6m), Stats., is reduced or terminated because either the resident requires a level or type of care which is not provided by the nursing home or the nursing home is found to be an institution for mental diseases as defined under 42 CFR 435.1009.

(3) PROCEDURES. (a) Notice. The facility shall provide a resident, the resident’s physician and, if known, an immediate family member or legal counsel, guardian, relative or other responsible person at least 30 days notice of transfer or discharge under sub. (2) (a) 2., to 10., and the reasons for the transfer or discharge, unless the continued presence of the resident endangers the health, safety or welfare of the resident or other residents. The notice shall contain the address and telephone number of the protection and advocacy agency designated under s. 51.62 (2) (a), Stats.

(b) Planning conference. 1. Unless circumstances posing a danger to the health, safety or welfare of a resident require otherwise, at least 7 days before the planning conference required by subd. 2., the resident, guardian, if any, any appropriate county agency, and others designated by the resident, including the resident’s physician, shall be given a notice containing the time and place of the conference, a statement informing the resident that any persons of the resident’s choice may attend the conference, and the procedure for submitting a complaint to the department.

2. Unless the resident is receiving respite care or unless precluded by circumstances posing a danger to the health, safety, or welfare of a resident, prior to any involuntary transfer or discharge under sub. (2) (a) 2., to 10., a planning conference shall be held at least 14 days before transfer or discharge with the resident, guardian, if any, any appropriate county agency, and others designated by the resident, including the resident’s physician, to review the need for relocation, assess the effect of relocation on the resident, discuss alternative placements and develop a relocation plan which includes at least those activities listed in subd. 3.

3. Transfer and discharge activities shall include:
   a. Counseling regarding the impending transfer or discharge;
   b. The opportunity for the resident to make at least one visit to the potential alternative placement, if any, including a meeting with that facility’s admissions staff, unless medically contraindicated or waived by the resident;
   c. Assistance in moving the resident and the resident’s belongings and funds to the new facility or quarters; and
   d. Provisions for needed medications and treatments during relocation.

4. A resident who is transferred or discharged at the resident’s request shall be advised of the assistance required by subd. 3. and shall be provided with that assistance upon request.

(c) Records. Upon transfer or discharge of a resident, the documents required by s. DHS 132.45 (5) (L) and (6) (h) shall be prepared and provided to the facility admitting the resident, along with any other information about the resident needed by the admitting facility.

(4) TRANSFER AGREEMENTS. (a) Requirement. Each facility shall have in effect a transfer agreement with one or more hospitals or other health care facilities or other hospital services are available promptly to the facility’s residents when needed. Each intermediate care facility shall also have in effect a transfer agreement with one or more skilled care facilities.

(b) Transfer of residents. A hospital and a facility shall be considered to have a transfer agreement in effect if there is a written agreement between them or, when the 2 institutions are under common control, if there is a written statement by the person or body which controls them, which gives reasonable assurance that:
   1. Transfer of residents will take place between the hospital and the facility ensuring timely admission, whenever such transfer is medically appropriate as determined by the attending physician;
   2. There shall be interchange of medical and other information necessary for the care and treatment of individuals transferred between the institutions, or for determining whether such individuals can be adequately cared for somewhere other than in either of the institutions.

(d) Notice requirements. 1. Before a resident of a facility is transferred to a hospital or for therapeutic leave, the facility shall provide written information to the resident and an immediate family member or legal counsel concerning the provisions of the approved state medicaid plan about the period of time, if any, during which the resident is permitted to return and resume residence in the nursing facility.

2. At the time of a resident’s transfer to a hospital or for therapeutic leave, the facility shall provide written notice to the resident and an immediate family member or legal counsel of the duration of the period, if any, specified under subd. 1.

Note: The "approved state medicaid plan" referred to s. 49.498 (4) (d) 1a., Stats., and subd. 1. states that the facility shall have a medicaid policy. The medicaid policy is found in s. DHS 107.09 (4) (j).

(5) BEDHOLD. (a) Bedhold. A resident who is on leave or temporarily discharged, as to a hospital for surgery or treatment, and has expressed an intention to return to the facility under the terms of the admission statement for bedhold, shall not be denied readmission unless, at the time readmission is requested, a condition of subd. (2) (b) has been satisfied.

(b) Limitation. The facility shall hold a resident’s bed under par. (a) until the resident returns, until the resident waives his or her right to have the bed held, or up to 15 days following the temporary leave or discharge, whichever is earlier.

Note: See s. DHS 107.09 (4) (j) for medical assistance bedhold rules.

(6) APPEALS ON TRANSFERS AND DISCHARGES. (a) Right to appeal. 1. A resident may appeal an involuntary transfer or discharge decision.

2. Every facility shall post in a prominent place a notice that a resident has a right to appeal a transfer or discharge decision. The notice shall explain how to appeal that decision and shall contain the address and telephone number of the nearest bureau of quality assurance regional office. The notice shall also contain the name, address and telephone number of the state board on aging and long-term care or, if the resident is developmentally disabled or has a mental illness, the mailing address and telephone number of the protection and advocacy agency designated under s. 51.62 (2) (a), Stats.

3. A copy of the notice of a resident’s right to appeal a transfer or discharge decision shall be placed in each resident’s admission folder.

4. Every notice of transfer or discharge under sub. (3) (a) to a resident, relative, guardian or other responsible party shall include a notice of the resident’s right to appeal that decision.

(b) Appeal procedures. 1. If a resident wishes to appeal a transfer or discharge decision, the resident shall send a letter to the nearest regional office of the department’s bureau of quality assurance within 7 days after receiving a notice of transfer or discharge 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 transfer or discharge 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 department’s bureau of quality assurance 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 transfer or discharge from the facility, the resident may not be transferred or discharged from the facility until the department’s bureau of quality assurance has completed its review of the decision and notified both the resident and the facility of its decision.

5. The department’s bureau of quality assurance shall complete its review of the facility’s decision and notify both the resident and the facility in writing 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 decision of the department’s bureau of quality assurance in writing to the department of administration’s division of hearings and appeals within 5 days after receipt of the decision.

Note: The mailing address of the Division of Hearings and Appeals is P.O. Box 7875, Madison, Wisconsin 53707.

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.

Note: The bureau of quality assurance was renamed the division of quality assurance.

History: Cr. Register, July, 1982, No. 319, eff. 8–1–82; cr. (2) (b) 8 and 9, am. (2) (c), (3) (b) 2. and (c), Register, January, 1987, No. 373, eff. 2–1–87; rem. (2) (c) to be (2) (c) 1. and am., cr. (2) (c) 2., Register, February, 1989, No. 398, eff. 3–1–89; am. (2) (c) 2. b., Register, October, 1989, No. 406, eff. 11–1–89; r. and recr. (1) to (3), cr. (4) (d) 6. and (6), Register, June, 1991, No. 426, eff. 7–1–91; CR 06–053: am. (2) (b) 1., r. (4) (c), Register August 2007 No. 620, eff. 9–1–07.

**DHS 132.54 Transfer within the facility.** Prior to any transfer of a resident between rooms or beds within a facility, the resident or guardian, if any, and any other person designated by the resident shall be given reasonable notice and an explanation of the reasons for transfer. Transfer of a resident between rooms or beds within a facility may be made only for medical reasons or for the resident’s welfare or the welfare of other residents or as permitted under s. DHS 132.31 (1) (p) 1.

**Subchapter VI — Services**

**DHS 132.60 Resident care.** (1) INDIVIDUAL CARE.

Unless it is in conflict with the plan of care, each resident shall receive care based upon individual needs.

(a) **Hygiene.** 1. Each resident shall be kept comfortably clean and well-groomed.

(b) **Decubiti prevention.** Nursing personnel shall employ appropriate nursing management techniques to promote the maintenance of skin integrity and to prevent development of decubiti (bedsores). These techniques may include periodic position change, massage therapy and regular monitoring of skin integrity.

(c) **Basic nursing care.** 2. Nursing personnel shall provide care designed to maintain current functioning and to improve the resident’s ability to carry out activities of daily living, including assistance with maintaining good body alignment and proper positioning to prevent deformities.

3. Each resident shall be encouraged to be up and out of bed as much as possible, unless otherwise ordered by a physician.

4. Any significant changes in the condition of any resident shall be reported to the nurse in charge or on call, who shall take appropriate action including the notice provided for in sub. (3).

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 non-pharmacological interventions to control pain.

(d) **Rehabilitative measures.** Residents shall be assisted in carrying out rehabilitative measures initiated by a rehabilitative therapist or ordered by a physician, including assistance with adjusting to any disabilities and using any prosthetic devices.

Note: See s. DHS 132.60 (5) (a) 1. for treatments and orders.

(2) **NOURISHMENT.** (a) **Diets.** Residents shall be served diets as prescribed.

(b) **Adaptive devices.** Adaptive self-help devices, including dentures if available, shall be provided to residents, and residents shall be trained in their use to contribute to independence in eating.

(d) **Food and fluid intake and diet acceptance.** A resident’s food and fluid intake and acceptance of diet shall be observed, and significant deviations from normal eating patterns shall be reported to the nurse and either the resident’s physician or dietitian as appropriate.

Note: For other dietary requirements, see s. DHS 132.63.

(3) **NOTIFICATION OF CHANGES IN CONDITION OR STATUS OF RESIDENT.** (a) **Changes in condition.** A resident’s physician, guardian, if any, and any other responsible person designated in writing by the resident or guardian to be notified shall be notified promptly of any significant accident, injury, or adverse change in the resident’s condition.

(b) **Changes in status.** A resident’s guardian and any other person designated in writing by the resident or guardian to be notified shall be notified promptly of any significant non-medical change in the resident’s status, including financial situation, any plan to discharge the resident, or any plan to transfer the resident within the facility or to another facility.

Note: For responses to changes in medical condition, see s. DHS 132.60 (1) (c) 4; for records, see s. DHS 132.45 (5) (c) 4.

(5) **TREATMENT AND ORDERS.** (a) **Orders.** 1. ‘Restriction.’ Medications, treatments and rehabilitative therapies shall be administered as ordered by 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 or a daycare client without an authorized prescriber’s written order which shall be filed in the resident’s or daycare client’s clinical record.

2. ‘Oral orders.’ Oral orders shall be immediately written, signed and dated by the nurse, pharmacist or therapist on the prescriber’s order sheet, and shall be countersigned by the prescriber and filed in the resident’s clinical record within 10 days of the order.

(d) **Administration of medications.** 1. ‘Personnel who may administer medications.’ In a nursing home, medication may be administered only by a nurse, a practitioner, as defined in s. 450.01 (17), Stats., or a person who has completed training in a drug administration course approved by the department.

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 medi-
5. ‘Errors and reactions.’ Medication errors and suspected or apparent drug reactions shall be reported to the nurse in charge or on call as soon as discovered and an entry made in the resident’s clinical record. The nurse shall take appropriate action.

Note: See s. DHS 132.65, pharmaceutical services, for additional requirements.

(6) PHYSICAL AND CHEMICAL RERAINTS. (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.

(c) Type of restraints. Physical restraints shall be of a type which can be removed promptly in an emergency, and shall be the least restrictive type appropriate to the resident.

(f) Periodic care. Nursing personnel shall check a physically restrained resident as necessary, but at least every 2 hours, to see that the resident’s personal needs are met and to change the resident’s position.

(8) RESIDENT CARE PLANNING. (a) Development and content of care plans. Except in the case of a person admitted for short-term care, within 4 weeks following admission a written care plan shall be developed, based on the resident’s history and assessment from all appropriate disciplines and the physician’s evaluation and orders, as required by s. DHS 132.52.

Note: For requirements upon admission, see s. DHS 132.52. For requirements for short-term care residents, see s. DHS 132.70 (2).

(b) Evaluations and Updates. The care of each resident shall be reviewed by each of the services involved in the resident’s care and the care plan evaluated and updated as needed.

(c) Implementation. The care plans shall be substantially followed.

Note: The department encourages and promotes the principles of resident self-determination and person directed care.

History: Cr. Register, July, 1982, No. 319, eff. 8–1–82; r. and recr. (5) (d) 1., Register, February, 1983, No. 326, eff. 3–1–83; am. (1) (d), (2), (3) (5) (a) 1. to 3., (6) (c) and (8) (a), r. and recr. (1) (b) and (6) (f), Register, January, 1987, No. 373, eff. 2–1–87; am. (6) (a) 1. Register, February, 1989, No. 398, eff. 3–1–89; cr. (8) (d), Register, November, 1990, No. 419, eff. 12–1–90; correction in (5) (d) made under s. 13.93 (2m) (b) 7., Stats., Register, August, 2000, No. 536; CR 04–053: cr. (1) (c) 5., am. (5) (a) 1. and 2., (5) (d) 2., and (6) (b), r. (5) (a) 3. and (c) Register October 2004 No. 586, eff. 11–1–04; CR 06–053: r. (1) (a) 2. and 3., (c) 1., and (e), (2) (d), (4), (5) (a) 4., (b), (d) 3., 6. and (e), (6) (a), (c), (d), (g) (7), and (8) (a) 1. and 2., and (d), am. (5) (a) 1. (6) (b), and (8) (a) (intro.), Register August 2007 No. 620, eff. 9–1–07.

DHS 132.61 Medical services. Every skilled care facility shall retain, pursuant to a written agreement, a physician to serve as medical director on a part-time or full-time basis as is appropriate for the needs of the residents and the facility. Medical direction and coordination of medical care in the facility shall be provided by the medical director.

History: Cr. Register, July, 1982, No. 319, eff. 8–1–82; r. and recr. (2) (b), Register, January, 1987, No. 373, eff. 2–1–87; correction in (2) (b) made under s. 13.93 (2m) (b) 7., Stats., Register, December, 1996, No. 402; CR 06–053: r. (1) (c), (2), cons., remum. and am. (1) (a) and (b) to be DHS 132.61, Register August 2007 No. 620, eff. 9–1–07.

DHS 132.62 Nursing services. (1) DEFINITIONS. “Nursing personnel” means nurses, nurse aides, nursing assistants, and orderlies.

(2) NURSING ADMINISTRATION. (a) Director of nursing services in skilled care and intermediate care facilities. 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).

2. ‘Qualifications.’ The director of nursing services shall be a registered nurse.

3. ‘Duties.’ The director of nursing services shall be responsible for:

a. Supervising the functions, activities and training of the nursing personnel;

b. Developing and maintaining standard nursing practice, nursing policy and procedure manuals, and written job descriptions for each level of nursing personnel;

c. Coordinating nursing services with other resident services;

d. Designating the charge nurses provided for by this section;

e. Being on call at all times, or designating another registered nurse to be on call, when no registered nurse is on duty in the facility; and

f. Ensuring that the duties of nursing personnel shall be clearly defined and assigned to staff members consistent with the level of education, preparation, experience, and licensing of each.

(b) Charge nurses in skilled care facilities and intermediate care facilities. 1. ‘Staffing requirement.’ A skilled nursing facility shall have at least one charge nurse on duty at all times, and:

a. A facility with fewer than 60 residents in need of skilled nursing care shall have at least one registered nurse, who may be the director of nursing services, on duty as charge nurse during every daytime tour of duty;

b. A facility with 60 to 74 residents in need of skilled nursing care shall, in addition to the director of nursing services, have at least one registered nurse on duty as charge nurse during every daytime tour of duty;

c. A facility with 75 to 99 residents in need of skilled nursing care shall have, in addition to the director of nursing services, at least one registered nurse on duty as charge nurse during every daytime tour of duty. In addition, the facility shall have at least one registered nurse on duty as charge nurse every day on at least one other non–daytime tour of duty;

d. A facility with 100 or more residents in need of skilled nursing care shall have, in addition to the director of nursing services, at least one registered nurse on duty as charge nurse at all times.

e. An intermediate care facility shall have a charge nurse during every daytime tour of duty, who may be the director of nursing.

3. ‘Duties.’ a. The charge nurse, if a registered nurse, shall supervise the nursing care of all assigned residents, and delegate the duty to provide for the direct care of specific residents, including administration of medications, by nursing personnel based upon individual resident needs, the facility’s physical arrangement, and the staff capability.

b. The charge nurse, if a licensed practical nurse, shall manage and direct the nursing and other activities of other licensed practical nurses and less skilled assistants and shall arrange for the provision of direct care to specific residents, including administration of medications, by nursing personnel based upon individual resident needs, the facility’s physical arrangement, and the staff capability.

c. A facility with 75 to 99 residents in need of skilled nursing care shall have, in addition to the director of nursing services, at least one registered nurse on duty as charge nurse during every daytime tour of duty. In addition, the facility shall have at least one registered nurse on duty as charge nurse every day on at least one other non–daytime tour of duty.

(3) NURSE STAFFING. In addition to the requirements of sub. (2), there shall be adequate nursing service personnel assigned to care for the specific needs of each resident on each tour of duty. Those personnel shall be briefed on the condition and appropriate care of each resident.

History: Cr. Register, July, 1982, No. 319, eff. 8–1–82; am. (2) (b) 2. and (c), r. (2) (d), Register, January, 1967, No. 373, eff. 2–1–67; am. (3) (a), Register, February, 1969, No. 396, eff. 3–1–69; CR 04–053: am. (2) (a) 1. and r. and recr. (3) (a) Register October 2004 No. 586, eff. 11–1–04; CR 06–053: r. (1) (b), (2) (a) 2. b. and (c), (3) (a) and (c) to (b), remum. (1) (a) to be (1), cons., remum. and am. (2) (a) 2., (intro.) and a. to be (2) (a) 2., cons., remum. and am. (3) (intro.) and (b) to be (3), Register August 2007 No. 620, eff. 9–1–07.

DHS 132.63 Dietary service. (1) DIETARY SERVICE. The facility shall provide each resident a nourishing, palatable, well-balanced diet that meets the daily nutritional and special dietary needs of each resident.

(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.

d. Has completed at least quarterly by the physician and therapists, and the plan of food services shall consult with a qualified dietitian on a frequent and regularly scheduled basis.

Note: For inservice training requirements, see s. DHS 132.44 (2) (b).

(4) Menus. (a) General. The facility shall make reasonable adjustments to accommodate each resident's preferences, habits, customs, appetite, and physical condition.

b. Therapeutic diets. Therapeutic diets shall be prescribed by the attending physician. The attending physician may delegate to a licensed or certified dietitian the prescribing of a resident's diet, including a therapeutic diet, to the extent allowed by law. Therapeutic diets shall be served consistent with such orders.

(5) Meal service. (c) Table service. The facility shall provide table service in dining rooms for all residents who can and want to eat at a table, including residents in wheelchairs.

g. Drinking water. When a resident is confined to bed, a covered pitcher of drinking water and a glass shall be provided on a bedside stand. The water shall be changed frequently during the day, and pitchers and glasses shall be sanitized daily. Single-service disposable pitchers and glasses may be used. Common drinking utensils shall not be used.

(7) Sanitation. All readily perishable food and drink, except when being prepared or served, shall be kept in a refrigerator which shall have a temperature maintained at or below 40°F. (4°C.).

Note: See ch. DHS 145 for the requirements for reporting incidents of suspected disease transmitted by food.

History: Cr. Register, July, 1982, No. 319, eff. 8−1−82; am. (2) (a), (4) (a) 3., (5) (d) and (f) and (7) (a) 4., Register, January, 1987, No. 373, eff. 2−1−87; r. and recr. (5) (c), Register, February, 1989, No. 398, eff. 3−1−89; CR 04−053: am. (1), (r) and recr. (2), (r) (6) (c) and (7) (a) 4., Register October 2004 No. 586, eff. 11−1−04; CR 06−053: r. (2) (c), (3) (d) (1) 1. to 3., and 5., (b) 2. and 3., (5) (a), (b), (d) to (f), (6), (7) (a), (b) 1. and (c), and (8), remm. (4) (a) 4., (b) 1., and (7) (b) 2. to be (4) (a) and (b), (7) Register August 2007 No. 620, eff. 9−1−07; 2017 Wis. Act 101: am. (4) (b) Register December 2017 No. 744, eff. 1−1−18.

DHS 132.64 Rehabilitative services. (1) Provision of services. Each facility shall either provide or arrange for, under written agreement, specialized rehabilitative services as needed by residents to improve and maintain functioning.

(2) Service plans and restrictions. (b) Report to physician. Within 2 weeks of the initiation of rehabilitative treatment, a report of the resident’s progress shall be made to the physician.

c. Review of plan. Rehabilitative services shall be re-evaluated at least quarterly by the physician and therapists, and the plan of care updated as necessary.

(3) Specialized services — qualifications. (a) Physical therapy. Physical therapy shall be given or supervised only by a physical therapist.

(b) Speech and hearing therapy. Speech and hearing therapy shall be given or supervised only by a therapist who:

1. Meets the standards for a certificate of clinical competence granted by the American speech and hearing association; or

2. Meets the educational standards, and is in the process of acquiring the supervised experience required for the certification of subd. 1.

c. Occupational therapy. Occupational therapy shall be given or supervised only by a therapist who meets the standards for registration as an occupational therapist of the American occupational therapy association.

d. Equipment. Equipment necessary for the provision of therapies required by the residents shall be available and used as needed.

Note: For record requirement, see s. DHS 132.45.

History: Cr. Register, July, 1982, No. 319, eff. 8−1−82; CR 06−053: r. (2) (a), Register August 2007 No. 620, eff. 9−1−07.

DHS 132.65 Pharmaceutical services. (1) Definitions. As used in this section:

(a) "Medication" has the same meaning as the term "drug" defined in s. 450.06, Stats.

(b) "Prescription medication" has the same meaning as the term "prescription drug" defined in s. 450.07, Stats.

(c) "Schedule II drug" means any medication listed in s. 961.16, Stats.

(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.

(4) Emergency medication kit. (a) A facility may have one or more emergency medication kits. All emergency medication kits shall be under the control of a pharmacist.

(b) The emergency kit shall be sealed and stored in a locked area.

(5) Contingency supply of medications. (a) Maintenance. A facility may have a contingency supply of medications not to exceed 10 units of any medication. Any contingency supply of medications must be under the control of a pharmacist.

(b) Storage. Contingency drugs shall be stored at a nursing unit, except that those medications requiring refrigeration shall be stored in a refrigerator.

(c) Single units. Contingency medications shall be stored in single unit containers, a unit being a single capsule, tablet, ampule, tubex, or suppository.

(d) Committee authorization. The 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.

(e) Control. Unless controlled by a "proof−of−use" system, as provided by sub. (6) (e), a copy of the pharmacy communication order shall be placed in the contingency storage unit when any medication is removed.

(6) Requirements for all medication systems. (b) Storing and labeling medications. Unless exempted under par. (f), all medications shall be handled in accordance with the following provisions:

1. 'Storage.' Medications shall be stored near nurse’s stations, in locked cabinets, closets or rooms, conveniently located, well lighted, and kept at a temperature of no more than 85°F. (29°C.).

2. 'Transfer between containers.' Medications shall be stored in their original containers, and not transferred between containers, except by a physician or pharmacist.

3. 'Controlled substances.' Separately locked and securely fastened boxes or drawers, or permanently affixed compartments, within the locked medication area shall be provided for storage of
schedule II drugs, subject to 21 USC ch. 13, and Wisconsin’s uniform controlled substance act, ch. 961, Stats.
4. ‘Separation of medications.’ Medications packaged for individual residents shall be kept physically separated.
5. ‘Refrigeration.’ Medications requiring refrigeration shall be kept in a separate covered container and locked, unless the refrigeration is available in a locked drug room.
6. ‘External use of medications.’ Poisons and medications for external use only shall be kept in a locked cabinet and separate from other medications, except that time-released transdermal drug delivery systems, including nitroglycerin ointments, may be kept with internal medications.
7. ‘Accessibility to drugs.’ Medications shall be accessible only to the registered nurse or designee. In facilities where no registered nurse is required, the medications shall be accessible only to the administrator or designee. The key shall be in the possession of the person who is on duty and assigned to administer the medications.
8. ‘Labeling medications.’ Prescription medications shall be labeled with the expiration date and as required by s. 450.11 (4), Stats. Non-prescription medications shall be labeled with the name of the medication, directions for use, the expiration date and the name of the resident taking the medication.
(c) Destruction of medications. 1. ‘Time limit.’ Unless otherwise ordered by a physician, a resident’s medication not returned to the pharmacy for credit shall be destroyed within 72 hours of a physician’s order discontinuing its use, the resident’s discharge, the resident’s death or passage of its expiration date. No resident’s medication may be held in the facility for more than 30 days unless an order is written every 30 days to hold the medication.
2. ‘Procedure.’ Records shall be kept of all medication returned for credit. Any medication not returned for credit shall be destroyed in the facility and a record of the destruction shall be returned for credit. Any medication not returned for credit shall be destroyed within 72 hours of the resident’s death or passage of its expiration date, unless the original order specifies a greater time period of time not to exceed 60 days.
(e) Proof-of-use record. 1. For schedule II drugs, a proof-of-use record shall be maintained which lists, on separate proof-of-use sheets for each type and strength of schedule II drug, the date and time administered, resident’s name, physician’s name, dose, signature of the person administering dose, and balance.
2. Proof-of-use records shall be audited daily by the registered nurse or designee, except that in facilities in which a registered nurse is not required, the administrator or designee shall perform the audit of proof-of-use records daily.
(f) Resident control and use of medications. Medications which, if ingested or brought into contact with the nasal or eye mucosa, would produce toxic or irritant effects shall be stored and used only in accordance with the health, safety, and welfare of all residents.
(7) ADDITIONAL REQUIREMENTS FOR UNIT DOSE SYSTEMS. (a) Scope. When a unit dose drug delivery system is used, the requirements of this subsection shall apply in addition to those of sub. (6).
(b) General procedures. 1. The individual medication shall be labeled with the drug name, strength, expiration date, and lot or control number.
2. A resident’s medication tray or drawer shall be labeled with the resident’s name and room number.
3. Each medication shall be dispensed separately in single unit dose packaging exactly as ordered by the physician, and in a manner to ensure the stability of the medication.
4. An individual resident’s supply of drugs shall be placed in a separate, individually labeled container and transferred to the nursing station and placed in a locked cabinet or cart. This supply shall not exceed 4 days for any one resident.
5. If not delivered from the pharmacy to the facility by the pharmacist, the pharmacist’s agent shall transport unit dose drugs in locked containers.
6. The individual medication shall remain in the identifiable unit dose package until directly administered to the resident. Transferring between containers is prohibited.
7. Unit dose carts or cassettes shall be kept in a locked area when not in use.

DHS 132.67 Dental services. (1) ADVISORY DENTIST. The facility shall retain an advisory dentist to participate in the staff development program for nursing and other appropriate personnel and to recommend oral hygiene policies and practices for the care of residents.
(3) DENTAL EXAMINATION OF RESIDENTS. Every resident shall have a dental examination by a licensed dentist within 6 months after admission unless a dental examination has been performed within 6 months before admission. Subsequent dental health care shall be provided or arranged for the resident as needed.
Note: For record requirements, see s. DHS 132.45; for dentists’ orders, see s. DHS 132.60 (5); for staff development programs about dental practices, see s. DHS 132.44 (2).

DHS 132.68 Social services. (1) PROVISION OF SERVICES. Each facility shall provide for social services in conformance with this section.
(2) STAFF. Social worker. Each facility shall employ or retain a person full-time or part-time to coordinate the social services, to review the social needs of residents, and to make referrals.
(3) ADMISSION HISTORY. The facility shall prepare a social history of each resident.
(4) CARE PLANNING. A social services component of the plan of care, including potential for discharge, if appropriate, shall be developed and included in the plan of care required by s. DHS 132.60 (8) (a).
(5) SERVICES. Social services staff shall provide the following:
(a) Referrals. If necessary, referrals for guardianship proceedings, or to appropriate agencies in cases of financial, psychiatric, rehabilitative or social problems which the facility cannot serve;
(b) Adjustment assistance. Assistance with adjustment to the facility, and continuing assistance to and communication with the resident, guardian, family, or other responsible persons;
(c) Discharge planning. Assistance to other facility staff and the resident in discharge planning at the time of admission and prior to removal under this chapter; and
(d) Training. Participation in in-service training for direct care staff on the emotional and social problems and needs of the aged and ill and on methods for fulfilling these needs.
Note: For record requirements, see s. DHS 132.43 (5) (d).

Published under s. 35.93, Stats. Updated on the first day of each month. Entire code is always current. The Register date on each page is the date the chapter was last published.
DHS 132.69 Activities. Each facility shall have an activity program designed to meet the needs and interests of each resident.

History: Cr. Register, July, 1982, No. 319, eff. 9–1–82; am. (2) a., t. and recr. (2) c., r. (2) (d) and (f), rem. (2) e to be (2) d, Register, January, 1987, No. 373, eff. 2–1–87; CR 04–053: r. (2) a. 1.a. Register October 2004 No. 586, eff. 11–1–04; CR 06–053: r. and recr. (1) to be DHS 132.69, r. (2), Register August 2007 No. 620, eff. 9–1–07.

DHS 132.695 Special requirements for facilities serving persons who are developmentally disabled. (1) SCOPE. The requirements in this section apply to all facilities that serve persons who are developmentally disabled.

(2) DEFINITIONS. In this section:

(a) “Active treatment” means an ongoing, organized effort to help each resident attain or maintain his or her developmental capacity through the resident’s regular participation, in accordance with an individualized plan, in a program of activities designed to enable the resident to attain or maintain the optimal physical, intellectual, social and vocational levels of functioning of which he or she is capable.

(b) “Interdisciplinary team” means the persons employed by a facility or under contract to a facility who are responsible for planning the program and delivering the services relevant to a developmentally disabled resident’s care needs.

(c) “IPP” or “individual program plan” means a written statement of the services which are to be provided to a resident based on an interdisciplinary assessment of the individual’s developmental needs, expressed in behavioral terms, the primary purpose of which is to provide a framework for the integration of all the programs, services and activities received by the resident and to serve as a comprehensive written record of the resident’s developmental progress.

(d) “QIDP” or “qualified intellectual disabilities professional” means a person who has specialized training in intellectual disabilities or at least one year of experience in treating or working with individuals with intellectual disabilities and is one of the following:

1. A psychologist licensed under ch. 455, Stats.;
2. A physician;
3. A social worker with a graduate degree from a school of social work accredited or approved by the council on social work education or with a bachelor’s degree in social work from a college or university accredited or approved by the council on social work education;
4. A physical or occupational therapist who meets the requirements of s. DHS 105.27 or 105.28;
5. A speech pathologist or audiologist who meets the requirements of s. DHS 105.30 or 105.31;
6. A registered nurse;
7. A therapeutic recreation specialist who is a graduate of an accredited program or who has a bachelor’s degree in a specialty area such as art, dance, music, physical education or recreation therapy; or
8. A human services professional who has a bachelor’s degree in a human services field other than a field under subs. 1. to 7., such as rehabilitation counseling, special education or sociology.

(3) ACTIVE TREATMENT PROGRAMMING. All residents who are developmentally disabled shall receive active treatment. Active treatment shall include the resident’s regular participation, in accordance with the IPP, in professionally developed and supervised activities, experiences and therapies.

(4) RESIDENT CARE PLANNING. (b) Development and content of the individual program plan. 1. Except in the case of a person admitted for short-term care, within 30 days following the date of admission, the interdisciplinary team, with the participation of the staff providing resident care, shall review the preadmission evaluation and physician’s plan of care and shall develop an IPP based on the new resident’s history and an assessment of the resident’s needs by all relevant disciplines, including any physician’s evaluations or orders.

2. The IPP shall include:
   a. Evaluation procedures for determining whether the methods or strategies are accomplishing the care objectives; and
   b. A written interpretation of the preadmission evaluation in terms of any specific supportive actions, if appropriate, to be undertaken by the resident’s family or legal guardian and by appropriate community resources.

(c) Reassessment of individual program plan. 1. The care provided by staff from each of the disciplines involved in the resident’s treatment shall be reviewed by the professional responsible for monitoring delivery of the specific service.

2. Individual care plans shall be reassessed and updated at least quarterly by the interdisciplinary team, with more frequent updates if an individual’s needs warrant it, and at least every 30 days by the QIDP to review goals.

3. Reassessment results and other necessary information obtained through the specialists’ assessments shall be disseminated to other resident care staff as part of the IPP process.

4. Documentation of the reassessment results, treatment objectives, plans and procedures, and continuing treatment progress reports shall be recorded in the resident’s record.

(d) Implementation. Progress notes shall reflect the treatment and services provided to meet the goals stated in the IPP.

Note: See ch. DHS 134 for rules governing residential care facilities that primarily serve developmentally disabled persons who require active treatment.

History: Cr. Register, January, 1987, No. 373, eff. 2–1–87; am. (2) a., b., (3), (4) a., (b), (c) 1., 2. intro. and a. and (d), rem. (2) c to (d) and am. (intro.) and 3., cr. (2) c., Register, February, 1989, No. 398, eff. 3–1–89; correction in (2) d 4. made under s. 13.93 (2m) (b) 7., Stats., Register, August, 2000, No. 536; CR 04–053: cons., rem. and am. (3) a. (intro.) and 1. (intro.) to be (3), (3) a. 1. a. and b., 2., and (b), (4), (a) 2. a. to c. and (c) 1. 2. and 3., remun. (4) b. 2. d. and e. and (c) 1. a. to d. to be (4) b. 2. a. and b. and (c) 1. to 4., Register August 2007 No. 620, eff. 9–1–07; corrections in (2) d 4. and 5. made under s. 13.92 (4) b. 7., Stats., Register January 2009 No. 637; 2019 Wis. Act 1: am. (2) d. (intro.), (4) c. 2. Register May 2019 No. 761, eff. 6–1–19.

DHS 132.70 Special requirements when persons are admitted for short-term care. (1) SCOPE. A facility may admit persons for short-term care. A facility that admits persons for short-term care may use the procedures included in this section rather than the procedures included in ss. DHS 132.52 and 132.60 (8). Short-term care is for either respite or recuperative purposes. The requirements in this section apply to all facilities that admit persons for short-term care when they admit, evaluate, and provide care for these persons. Except as specifically noted in this section, all requirements of this chapter, including s. DHS 132.51, apply to all facilities that admit persons for short-term care.

(2) PROCEDURES FOR ADMISSION. Respite care. For a person admitted to a facility for respite care, the following admission and resident care planning procedures may be carried out in place of the requirements under ss. DHS 132.52 and 132.60 (8):

(a) A registered nurse or physician shall complete a comprehensive resident assessment of the person prior to or on the day of admission. This comprehensive assessment shall include evaluation of the person’s medical, nursing, dietary, rehabilitative, pharmaceutical, dental, social and activity needs. The consulting or staff pharmacist shall participate in the comprehensive assessment. As part of the comprehensive assessment, when the registered nurse or physician has identified a need for a special service, staff from the discipline that provides the service shall, on referral from the registered nurse or physician, complete a history and assessment of the person’s prior health and care in that discipline. The comprehensive resident assessment shall include:

1. A summary of the major needs of the person and of the care to be provided;
2. The attending physician’s plans for discharge.
Subchapter VII — Physical Environment

DHS 132.71 Furniture, equipment and supplies.

(1) Furniture in resident care areas. (b) Bedding. 1. Each resident shall be provided at least one clean, comfortable pillow. Additional pillows shall be provided if requested by the resident or required by the resident's condition.

2. Each bed shall have a mattress pad.

3. A moisture-proof mattress cover and pillow cover shall be provided to keep each mattress and pillow clean and dry.

4. A supply of sheets and pillow cases sufficient to keep beds clean, dry, and odor-free shall be stocked. At least 2 sheets and 2 pillow cases shall be furnished to each resident each week.

5. Beds occupied by bedfast or incontinent residents shall be provided draw sheets.

6. Each bed shall have a clean, washable bedspread.

(c) Other furnishings. 2. a. At least one chair shall be in each room for each bed. A folding chair shall not be used. If requested by the resident or guardian, a wheel-chair or geri-chair may be substituted.

b. An additional chair with arms shall be available upon request.

c. Adequate compartment or drawer space shall be provided in each room for each resident to store personal clothing and effects and to store, as space permits, other personal possessions in a reasonably secure manner.

5. A sturdy and stable table that can be placed over the bed or armchair shall be provided to every resident who does not eat in the dining area.

(d) Towels, washcloths, and soap. 1. Clean towels and washcloths shall be provided to each resident as needed. Towels shall not be used by more than one resident between launderings.

2. An individual towel rack shall be installed at each resident's bedside or at the lavatory.

3. Single service towels and soap shall be provided at each lavatory for use by staff.

(e) Window coverings. Every window shall be supplied with flame retardant shades, draw drapes or other covering material or devices which, when properly used and maintained, shall afford privacy and light control for the resident.

(2) Resident care equipment. (a) Personal need items. When a resident because of his or her condition needs a mouthwash cup, a wash bowl, a soap dish, a bedpan, an enemis basin, or a standard urinal and cover, that item shall be provided to the resident. This equipment may not be interchanged between residents until it is effectively washed and sanitized.

(c) First aid supplies. Each nursing unit shall be supplied with first aid supplies, including bandages, sterile gauze dressings, bandage scissors, tape, and a sling tourniquet.

(d) Other equipment. Other equipment, such as wheelchairs with brakes, footstools, commodes, foot cradles, footboards, under-the-mattress bedboards, walkers, trapeze frames, transfer boards, parallel bars, reciprocal pulleys, suction machines, patient lifts, and Stryker or Foster frames, shall be used as needed for the care of the residents.

(7) Oxygen. (a) No oil or grease shall be used on oxygen equipment.

(b) When placed at the resident’s bedside, oxygen tanks shall be securely fastened to a tip-proof carrier or base.

(c) Oxygen regulators shall not be stored with solution left in the attached humidifier bottle.

d. When in use at the resident’s bedside, cannulas, hoses, and humidifier bottles shall be maintained and used in accordance with current standards of practice and manufacturers’ recommendations.

e. Disposable inhalation equipment shall be maintained and used in accordance with current standards of practice and manufacturers’ recommendations.

(f) With other inhalation equipment such as intermittent positive pressure breathing equipment, the entire resident breathing circuit, including nebulizers and humidifiers, shall be maintained and used in accordance with current standards of practice and manufacturers’ recommendations.

History: Cr. Register, July, 1982, No. 319, eff. 8–1–82; am. (1) (e), (2) (a) and (3), Register, January, 1987, No. 373, eff. 2–1–87; CR 06–053: r. (1) (a), (b) 5., (c) 1. and 3., (2) (b) and (3) to (6), Register August 2007 No. 620, eff. 9–1–07; 2015 Wis. Act 107: am. (7) (d) to (f) Register November 2015 No. 719, eff. 12–1–15.
DHS 132.72 Housekeeping services. (1) Requirement. Facilities shall develop and implement written policies that ensure a safe and sanitary environment for personnel and residents at all times.

(2) Cleaning. (c) Combustibles in storage areas. Attics, cellars and other storage areas shall be kept safe and free from dangerous accumulations of combustible materials. Combustibles such as cleaning rags and compounds shall be kept in closed metal containers.

(f) Grounds. The grounds shall be kept free from refuse, litter, and waste water. Areas around buildings, sidewalks, gardens, and patios shall be kept clear of dense undergrowth.

(3) Poisons. All poisonous compounds shall be clearly labeled as poisonous and, when not in use, shall be stored in a locked area separate from food, kitchenware, and medications.

(4) Garbage. Storage containers. All garbage and rubbish shall be stored in leakproof, nonabsorbent containers with close-fitting covers, and in areas separate from those used for the preparation and storage of food. Containers shall be cleaned regularly. Paperboard containers shall not be used.

(6) Pest control. (b) Provision of service. Pest control services shall be provided in accordance with the requirements of s. 94.705, Stats.

(c) Screening of windows and doors. All windows and doors used for ventilation purposes shall be provided with wire screening of not less than number 16 mesh or its equivalent and shall be properly installed and maintained to prevent entry of insects. Screen doors shall be self-closing and shall not interfere with exiting. Properly installed airflow curtains or fans may be used in lieu of screens.

History: Cr. Register, July, 1982, No. 319, eff. 8-1-82; am. (2) (b), (c) and (e), (6) (c), Register, January, 1987, No. 375, eff. 2-1-87; cr. Register, December, 1996, No. 492, eff. 7-1-96; corrections in (1) made under s. 13.92 (4) (b) 6., Stats., Register August, 2000, No. 536; corrections in (1) made under s. 13.93 (2m) (b) 7., Stats., Register December 2003 No. 576; correction in (1) made under s. 13.92 (4) (b) 6., Stats., Register January 2009 No. 637; correction in (1) made under s. 13.92 (4) (b) 6., 7., Stats., Register January 2012 No. 673.

Subchapter VIII — Life Safety, Design and Construction

DHS 132.81 Scope and definitions. (1) Application. This subchapter applies to all facilities except where noted. Wherever the rules in ss. DHS 132.83 and 132.84 modify the applicable life safety code under s. DHS 132.82, these rules shall take precedence.

(2) Definitions. The definitions in the applicable life safety code required under s. DHS 132.82 apply to this subchapter.

In addition, in this subchapter:

(a) “Life safety code” means the National Fire Protection Association’s standard 101.

(b) “Period A facility” means a facility or a portion of a facility which before July 1, 1964, was either licensed as a nursing home or had the plans approved by the department; a county home or county mental hospital approved under former ch. PW 1 or 2 before July 1, 1964, which is to be converted to nursing home use; a hospital approved under ch. DHS 124 before July 1, 1964, which is to be converted to nursing home use; or any other recognized inpatient care facility in operation on or after July 1, 1964, to be converted to nursing home use.

(c) “Period B facility” means a facility or a portion of a facility the plans for which were approved by the department on or after July 1, 1964, but no later than December 1, 1974; a county home or county mental hospital approved under former ch. PW 1 or 2, or on or after July 1, 1964, but no later than December 1, 1974, which is to be converted for nursing home use; or any other recognized inpatient care facility in operation on or after July 1, 1964, but no later than December 1, 1974, which is to be converted to nursing home use.

(d) “Period C facility” means a facility, the plans for which were approved by the department after December 1, 1974, including new additions to existing licensed facilities and major remodeling and alterations.

History: Cr. Register, July, 1982, No. 319, eff. 8-1-82; r. and recr. (2), Register, January, 1987, No. 373, eff. 2-1-87; r. and recr. under s. 13.92 (4) (b), Register May, 1987, No. 377; correction in (2) (b) made under s. 13.92 (4) (b) 7., Stats., Register January 2009 No. 637.

DHS 132.812 Review for compliance with this chapter and the state building code. (1) The department shall review nursing home construction and remodeling plans for compliance with this chapter and for compliance with the state commercial building code, chs. SPS 361 to 365, with the exception of s. SPS 361.31 (3). Where chs. SPS 361 to 365 refer to the department of safety and professional services, those rules shall be deemed for purposes of review under this chapter to refer to the department of health services.

(2) The department shall have 45 working days from receipt of an application for plan review and all required forms, fees, plans and documents to complete the review and approve, approve with conditions or deny approval for the plan.

History: Emerg. cr. eff. 7-1-96; cr. Register, December, 1996, No. 492, eff. 7-1-96; corrections in (1) made under s. 13.93 (2m) (b) 7., Stats., Register, August, 2000, No. 536; corrections in (1) made under s. 13.93 (2m) (b) 7., Stats., Register December 2003 No. 576; correction in (1) made under s. 13.92 (4) (b) 6., Stats., Register January 2009 No. 637; correction in (1) made under s. 13.92 (4) (b) 6., 7., Stats., Register January 2012 No. 673.

DHS 132.815 Fees for plan reviews. (1) Requirement. Before the start of any construction or remodeling project for a nursing home, the plans for the construction or remodeling shall be submitted to the department, pursuant to s. DHS 132.84 (17), for review and approval by the department. The fees established in this section shall be paid to the department for providing plan review services.

(2) Fee schedule. (a) General. The department shall charge a fee for the review under s. DHS 132.812 of plans for a nursing home capital construction or remodeling project. The fee shall be based in part on the dollar value of the project, according to the schedule under par. (b), and in part on the total gross floor area in the plans, as found in par. (c). The total fee for plan review is determined under par. (d). Fees for review of partial plans, for revision of plans, for extensions of plan approval, and for handling and copying, and provisions for the collection and refund of fees are found in par. (e).

(b) Fee part based on project dollar value. The part of the fee based on project dollar value shall be as follows:

1. For projects with an estimated dollar value of less than $5,000, $100;
2. For projects with an estimated dollar value of at least $5,000 but less than $25,000, $300;
3. For projects with an estimated dollar value of at least $25,000 but less than $100,000, $500;
4. For projects with an estimated dollar value of at least $100,000 but less than $500,000, $750;
5. For projects with an estimated dollar value of at least $500,000 but less than $1 million, $1,500;
6. For projects with an estimated dollar value of at least $1 million but less than $5 million, $2,500; and
7. For projects with an estimated dollar value of $5 million or more, $5,000.

(c) Fee part based on total gross floor area. 1. ‘General.’ The part of the fee based on total gross floor area shall be as provided in Table 132.815 subject to the conditions set out in this paragraph.

2. ‘Building, heating and ventilation.’ The fees in Table 132.815 apply to the small building and heating, ventilation and air conditioning (HVAC) plans. A fee for review of plans
shall be computed on the basis of the total gross floor area of each building.

### Table 132.815 Fee Part Based on Total Gross Floor Area

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<th>Area (Sq. Feet)</th>
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<td>Bldg. &amp; HVAC</td>
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<tr>
<td>75,001–100,000</td>
<td>3,880</td>
</tr>
<tr>
<td>100,001–200,000</td>
<td>5,940</td>
</tr>
<tr>
<td>200,001–300,000</td>
<td>12,200</td>
</tr>
<tr>
<td>300,001–400,000</td>
<td>17,190</td>
</tr>
<tr>
<td>400,001–500,000</td>
<td>21,220</td>
</tr>
<tr>
<td>Over 500,000</td>
<td>22,810</td>
</tr>
</tbody>
</table>

3. ‘Scope of fee.’ The fees indicated in Table 132.815, relating to building and heating, ventilation and air conditioning plans, include the plan review and inspection fee for all components, whether submitted with the original submittal or at a later date. Components covered by that fee are:

   a. Building plans;
   b. Heating, ventilation and air conditioning plans;
   c. Bleacher plans for interior bleachers only;
   d. Fire escape plans;
   e. Footing and foundation plans; and
   f. Structural component plans, such as plans for floor and roof trusses, precast concrete, laminated wood, metal buildings, solariums and other similar parts of the building.

4. ‘Building alteration.’ a. The examination fee for review of plans for alteration of existing buildings and structures undergoing remodeling or review of tenant space layouts shall be determined in accordance with Table 132.815 on the basis of the gross floor area undergoing remodeling.

   b. The fee specified in subd. 4. a. shall be based on the actual gross square footage of the area being remodeled. When remodeling of an individual building component affects building code compliance for a larger area, the fee shall be computed on the basis of the total square footage of the affected area.

   (d) Total fee for review of plans. To determine the total fee for review of plans, the department shall:

   1. Add the fee parts from pars. (b) and (c); and
   2. Multiply the sum obtained in subd. 1. by 0.95.

   (e) Other fee provisions related to review of plans. 1. ‘Fee for miscellaneous plans.’ Miscellaneous plans are plans that have no building or heating, ventilation and air conditioning plan submissions and for which there may not be an associated area. The fee for a miscellaneous plan shall be $250. This fee is for plan review and inspection. Miscellaneous plans include:

   a. Footing and foundation plans submitted prior to the submission of the building plans;
   b. Plans for industrial exhaust systems for dust, fumes, vapors and gases, for government-owned buildings only;
   c. Spray booth plans, for government-owned buildings only;
   d. Stadium, grandstand and bleacher plans, and interior bleacher plans submitted as independent projects;
   e. Structural plans submitted as independent projects, such as docks, piers, antennae, outdoor movie screens and observation towers; and
   f. Plans for any building component, other than building and heating, ventilation and air conditioning, submitted following the final inspection by the department.

2. ‘Fee for permission to start construction.’ The fee for permission to start construction shall be $80. This fee shall apply to those applicants proposing to start construction prior to the approval of the plans by the department.

3. ‘Fee for plan revision.’ The fee for revision of previously approved plans shall be $100. This paragraph applies when plans are revised for reasons other than those that were requested by the department. The department may not charge a fee for revisions requested by the department as a condition of original plan approval.

4. ‘Fee for extension of plan approval.’ The examination fee for a plan previously approved by the department for which an approval extension (was requested) beyond the time limit specified in this chapter shall be $75 per plan.

5. ‘Collection of fees.’ Fees shall be remitted at the time the plans are submitted. No plan examinations, approvals or inspections may be made until fees are received.

6. ‘Handling and copying fees.’ a. The department shall charge a handling fee of $50 per plan to the submitting party for any plan that is submitted to the department, entered into the department’s system and subsequently requested by the submitting party to be returned prior to departmental review.

   b. The department may charge a photocopying fee of 25 cents per page to anyone who requests copies of construction or remodeling plans, except that a fee of $5 per plan sheet shall be charged for reproduction of plan sheets larger than legal size.

   (3) Handling and copying fees. (a) The department shall charge a handling fee of $50 per plan to the submitting party for any plan which is submitted to the department, entered into the department’s system and then the submitting party requests that it be returned prior to review.

   (b) The department may charge a photocopying fee of 25 cents per page to anyone who requests copies of construction or remodeling plans, except that a fee of $5 per plan sheet shall be charged for reproduction of plan sheets larger than legal size.


**Historical Note:** Copies of the 2012 Life Safety Code and related codes are on file in the Department’s Division of Quality Assurance and the Legislative Reference Bureau, and may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169.

(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.

(3) Resident safety and disaster plan. (a) Disaster plan. 1. Each facility shall have a written procedure which shall be followed in case of fire or other disasters, and which shall specify persons to be notified, locations of alarm signals and fire extinguishers, evacuation routes, procedures for evacuating helpless residents, frequency of fire drills, and assignment of specific tasks and responsibilities to the personnel of each shift and each discipline.
2. The plan shall be developed with the assistance of qualified fire and safety experts, including the local fire authority.

3. All employees shall be oriented to this plan and trained to perform assigned tasks.

4. The plan shall be available at each nursing station.

5. The plan shall include a diagram of the immediate floor area showing the exits, fire alarm stations, evacuation routes, and locations of fire extinguishers. The diagram shall be posted in conspicuous locations in the corridor throughout the facility.

(b) Drills. Fire drills shall be held at irregular intervals at least 4 times a year on each shift and the plan shall be reviewed and modified as necessary. Records of drills and dates of drills shall be maintained.

(c) Fire inspections. The administrator of the facility shall arrange for fire protection as follows:

1. At least semiannual inspection of the facility shall be made by the local fire inspection authorities. Signed certificates of such inspections shall be kept on file in the facility.

2. Certification by the local fire authority as to the fire safety of the facility and to the adequacy of a written fire plan for orderly evacuation of residents shall be obtained and kept on file in the facility.

3. Where the facility is located in a city, village, or township that does not have an official established fire department, the licensee shall obtain and maintain a continuing contract for fire protection service with the nearest municipality providing such service. A certification of the existence of such contract shall be kept on file in the facility.


(e) Fire report. All incidents of fire in a facility shall be reported to the department within 72 hours.

History: Cr. Register, July, 1982, No. 319, eff. 8–1–82; am. (3) c. 1., (5) c. and (f) intro., (6) b., (7) a., (f), (g) 1., (j) 2., Register, January, 1987, No. 373, eff. 2–1–87; emerg. am. (6) a., r. and recre. (b) b., eff. 7–1–94; am. (6) a., r. and recre. (b) b., Register, January, 1995, No. 469, eff. 2–1–95; CR 04–053: am. (4) (a) 2., r. 5. (b), (c) and (d), Register October 2004 No. 586, eff. 11–1–04; CR 06–053: r. (2) (3) a. to (c), (5), (6), (7) b., (c), (d), 2. c., (f), (g) 1., (b) 1. to 4. and 5. a., and (j) 1. and 2. h. to (7) d.(d) and g., cons., remun. and am. (7) b. 5. intro. and b. to be &(7) b. 5., cons., remun. and am. (7) (j) 2. intro. and a. to be (7) j. 2., Register August 2007 No. 620, eff. 9–1–07.

DHS 132.83 Safety and systems. (1) MAINTENANCE. The building shall be maintained in good repair and kept free of hazards such as those created by any damaged or defective building equipment.

(3) Doors. (d) Toilet room doors. In period B and C facilities, resident toilet room doors shall be not less than 3 feet 0 inches by 6 feet 8 inches, and shall not swing into the toilet room unless they are provided with two–way hardware.

(e) Thresholds. In period B and C facilities, raised thresholds which cannot be traversed easily by a bed on wheels, a wheelchair, a drug cart, or other equipment on wheels shall not be used.

(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, 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.

(7) Mechanical systems. (a) Water supply. 1. A potable water supply shall be maintained at all times. If a public water supply is available, it shall be used. If a public water supply is not available, the well or wells shall comply with ch. NR 812.

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 the range of 110–115°F.

(d) Heating and air conditioning. The heating and air conditioning systems shall be capable of maintaining adequate temperatures and providing freedom from drafts.

(g) General lighting. Period C facilities shall have night lighting.

(h) 5. Ventilation. In period C facilities all rooms in which food is stored, prepared or served, or in which utensils are washed shall be well–ventilated. Refrigerated storage rooms need not be ventilated.

(i) Elevators. 1. In period B facilities, at least one elevator shall be provided when residents’ beds are located on one or more floors above or below the dining or service floor. The platform size of the elevator shall be large enough to hold a resident bed and attendant.

2. In period C facilities, at least one elevator shall be provided in the facility if resident beds or activities are located on more than one floor. The platform size of the elevator shall be large enough to hold a resident bed and an attendant.

(j) 2. Electrical. In period B and C facilities at least one duplex–type outlet shall be provided for every resident’s bed.

3. In new construction begun after the effective date of this chapter, at least 2 duplex–type outlets shall be provided for each bed.

History: Cr. Register, July, 1982, No. 319, eff. 8–1–82; am. (3) c. 1., (5) c. and (f) intro., (6) b., (7) a., (f), (g) 1., (j) 2., Register, January, 1987, No. 373, eff. 2–1–87; emerg. am. (6) a., r. and recre. (b) b., eff. 7–1–94; am. (6) a., r. and recre. (b) b., Register, January, 1995, No. 469, eff. 2–1–95; CR 04–053: am. (4) (a) 2., r. 5. (b), (c) and (d), Register October 2004 No. 586, eff. 11–1–04; CR 06–053: r. (2) (3) a. to (c), (5), (6), (7) b., (c), (d), 2. c., (f), (g) 1., (b) 1. to 4. and 5. a., and (j) 1. and 2. h. to (7) d.(d) and g., cons., remun. and am. (7) b. 5. intro. and b. to be &(7) b. 5., cons., remun. and am. (7) (j) 2. intro. and a. to be (7) j. 2., Register August 2007 No. 620, eff. 9–1–07.

DHS 132.84 Design. (1) RESIDENTS’ ROOMS. (a) Assignment of residents. Sexes shall be separated by means of separate wings, floors, or rooms, except in accordance with s. 50.09 (1) (f) 1. Stats.

(b) Location. No bedroom housing a resident shall open directly to a kitchen or laundry.

(g) Bed arrangement. The beds shall be arranged so that the beds shall be at least 3 feet apart and a clear aisle space of at least 3 feet from the entrance to the room to each bed shall be provided.

(h) Closet space. A closet or locker shall be provided for each resident in each bedroom. Closets or lockers shall afford a space of not less than 15 inches wide by 18 inches deep by 5 feet in height for each resident.

(i) Cubicle curtains. 1. In period A and B facilities, each bed in a multiple–bed room shall have a flameproof cubicle curtain or an equivalent divisor that will assure resident privacy.

2. In period C facilities, each bed in a multiple–bed room shall be provided with a flameproof cubicle curtain to enclose each bed and to assure privacy.

(2) TOILET AND BATHING FACILITIES. (a) General. All lavatories required by this subsection shall have hot and cold running water. Toilets shall be water flushed and equipped with open front seats without lids.

(c) Period A and B. In period A and B facilities separate toilet and bath facilities shall be provided for male and female residents.

(f) Period C. In period C facilities every tub, shower, or toilet shall be separated in such a manner that it can be used independently and afford privacy.

(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 subs. 2. and 3., a well–lit, secure medicine preparation, storage and handling room or area avail-
able 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 subd. 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 announce 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 November 1, 2004, 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 November 1, 2004, 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.

(6) FOOD SERVICE. (a) General. The facility shall have a kitchen or dietary area which shall be adequate to meet food service needs and shall be arranged and equipped for the refrigeration, storage, preparation, and serving of food, as well as for dish and utensil cleaning and refuse storage and removal. Dietary areas shall comply with the local health or food handling codes. Food preparation space shall be arranged for the separation of functions and shall be located to permit efficient services to residents and shall not be used for nondietary functions.

Note: The department encourages and supports gerontological design principles that promote innovation and a diversity of approaches.

(15) MIXED OCCUPANCY. Rooms or areas within the facility may be used for occupancy by individuals other than residents and facility staff if the following conditions are met:

(a) The use of these rooms does not interfere with the services provided to the residents; and

(b) The administrator takes reasonable steps to ensure that the health, safety and rights of the residents are protected.

(17) SUBMISSION OF PLANS AND SPECIFICATIONS. For all new construction:

(a) One copy of schematic and preliminary plans shall be submitted to the department for review and approval of the functional layout.

(b) One copy of working plans and specifications shall be submitted to and approved by the department before construction is begun. The department shall notify the facility in writing of any divergence in the plans and specifications, as submitted, from the prevailing rules.

(c) The plans specified in pars. (a) and (b) shall show the general arrangement of the buildings, including a room schedule and fixed equipment for each room and a listing of room numbers, together with other pertinent information. Plans submitted shall be drawn to scale.

(d) Any changes in the approved working plans affecting the application of the requirements herein established shall be shown on the approved working plans and shall be submitted to the department for approval before construction is undertaken. The department shall notify the facility in writing of any divergence in the plans and specifications, as submitted, from the prevailing rules.

(e) If on−site construction above the foundation is not started within 6 months of the date of approval of the working plans and specifications under par. (b), the approval shall be void and the plans and specifications shall be resubmitted for reconsideration of approval.

(f) If there are no divergences from the prevailing rules, the department shall provide the facility with written approval of the plans as submitted.

History: Cr. Register, July, 1982, No. 319, eff. 8¬1¬82; am. (3) (b) 2. and (13) (c), renum. (15) and (16) to be (16) and (17), cr. (15), Register, January, 1987, No. 373, eff. 2¬1¬87; am. (1) (b) 2., (2) (e) 1. c. and (5) (a); CR 04¬05¬3: r. and recr. (3) and (4) and am. (6) (d) 12. Register October 2004 No. 586, eff. 11¬1¬04; CR 06¬053: am. (1) (a), r. (1) (b) 2. and 3., (c), (d), (e), (f), (j), (k), (2) (b) to (d), (e) 1. a. to d. and 2., (f) 1. to 3., 5., (g), (5) (b) to (d), (7) to (14) and (16), cons., renum. and am. (1) (b) (intro.) and 1. to be (1) (b), cons., renum., and am. (2) (e) (intro.) and 1. (intro.) to be (2) (e), cons., renum. and am. (2) (f) (intro.) and 4. to be (2) (f), Register August 2007 No. 2007, eff. 9¬1¬07.
CHAPTER 50
UNIFORM LICENSURE

SUBCHAPTER I
CARE AND SERVICE RESIDENTIAL FACILITIES

50.01 Definitions. As used in this subchapter:

1. “Adult family home” means one of the following and does not include a place that is specified in sub. (1g) (a) to (d), (f), or (g):
   a. A private residence to which all of the following apply:
      1. Care and maintenance above the level of room and board but not including nursing care are provided in the private residence by the care provider whose primary domicile is this residence for 3 or 4 adults, or more adults if all of the adults are siblings, each of whom has a developmental disability, as defined in s. 51.01 (5), or, if the residence is licensed as a foster home, care and maintenance are provided to children, the combined total of adults and children so served being no more than 4, or more adults or children if all of the adults or all of the children are siblings.
      2. The private residence was licensed under s. 48.62 as a home for the care of the adults specified in subd. 1. at least 12 months before any of the adults attained 18 years of age.
      b. A place where 3 or 4 adults who are not related to the operator reside and receive care, treatment or services that are above the level of room and board and that may include up to 7 hours per week of nursing care per resident.
   b. Advanced practice nurse prescriber” means an advanced practice nurse who is certified under s. 441.16 (2) to issue prescription orders.


50.02 Definitions. As used in this subchapter:

1. “Advanced practice nurse prescriber” means an advanced practice nurse who is certified under s. 441.16 (2) to issue prescription orders.
b. Care or services other than board, information, referral, advocacy or job guidance; location and coordination of social services by an agency that is not affiliated with the owner, manager or operator, for which arrangements were made for an individual before he or she lodged in the place; or, in the case of an emergency, arrangement for the provision of health care or social services by an agency that is not affiliated with the owner, manager or operator.

(e) An adult family home.

(f) A residential care apartment complex.

(g) A residential facility in the village of Union Grove that was authorized to operate without a license under a final judgment entered by a court before January 1, 1982, and that continues to comply with the judgment notwithstanding the expiration of the judgment.

(h) A private residence that is the home to adults who independently arrange for and receive care, treatment, or services for themselves from a person or agency that has no authority to exercise direction or control over the residence.

(i) A group home licensed under s. 48.625 or a residential care center for children and youth licensed under s. 48.60 that provides care and maintenance for persons who are in extended out-of-home care under s. 48.366 or 938.366.

11m “Facility” means a nursing home or community-based residential facility. If notice is required to be served on a facility or a facility is required to perform any act, “facility” means the person licensed or required to be licensed under s. 50.03 (1).

1ng “Immediate jeopardy” means a situation in which a nursing home’s noncompliance with one or more requirements under 42 CFR 483 related to the operation of a nursing home has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident.

1r “Home health agency” has the meaning given under s. 50.49 (1) (a).

1s “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.

11 “Intermediate level nursing care” means basic care that is required by a person who has a long-term illness or disability that has reached a relatively stable plateau.

11w “Licensed practical nurse” means a licensed practical nurse who is licensed or has a temporary permit under s. 441.10 or who holds a multistate license, as defined in s. 441.51 (2) (h), issued in a party state, as defined in s. 441.51 (2) (k).

2 “Nurse aide” means a person who performs routine patient care duties delegated by a registered nurse or licensed practical nurse who supervises the person, for the direct health care of a patient or resident. “Nurse aide” does not mean a feeding assistant, as defined in s. 146.40 (1) (aw); a person who is licensed, certified, or registered under ch. 441, 448, 449, 450, 451, 455, 459, or 460; or a person whose duties primarily involve skills that are different than those taught in instructional programs for nurse aides.

2m “Nursing care” means nursing procedures, other than personal care, that are permitted to be performed by a registered nurse under s. 441.01 (3) or by a licensed practical nurse under s. 441.001 (3), directly on or to a resident.

3 “Nursing home” means a place where 5 or more persons who are not related to the operator or administrator reside, receive care or treatment and, because of their mental or physical condition, require access to 24-hour nursing services, including limited nursing care, intermediate level nursing care and skilled nursing services. “Nursing home” does not include any of the following:

(c) 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.

(d) A hospice, as defined in s. 50.90 (1), that directly provides inpatient care.

(e) A residential care apartment complex.

4 “Nursing home administrator” has the meaning assigned in s. 456.01 (3).

4m “Operator” means any person licensed or required to be licensed under s. 50.03 (1) or a person who operates an adult family home that is licensed under s. 50.033 (1m) (b).

4o “Personal care” means assistance with the activities of daily living, such as eating, dressing, bathing and ambulation, but does not include nursing care.

4p “Physician assistant” has the meaning given in s. 448.01 (6).

4r “Plan of correction” means a nursing home’s response to alleged deficiencies cited by the department on forms provided by the department.

5m “Rehabilitative care” means care anticipated to be provided in a nursing home for a period of 90 days or less for a resident whose physician has certified that he or she is convalescing or recuperating from an illness or medical treatment.

5r “Registered nurse” means a registered nurse who is licensed under s. 441.06 or permitted under s. 441.08 or who holds a multistate license, as defined in s. 441.51 (2) (h), issued in a party state, as defined in s. 441.51 (2) (k).

6 “Resident” means a person who is cared for or treated in and is not discharged from a nursing home, community–based residential facility or adult family home, irrespective of how admitted.

6d “Residential care apartment complex” means a place where 5 or more adults reside that consists of independent apartments, each of which has an individual lockable entrance and exit, a kitchen, including a stove, and individual bathroom, sleeping and living areas, and that provides, to a person who resides in the place, not more than 28 hours per week of services that are supported personal and nursing services. “Residential care apartment complex” does not include a nursing home or a community–based residential facility, but may be physically part of a structure that is a nursing home or community–based residential facility. In this subsection, “stove” means a cooking appliance that is a microwave oven of at least 1,000 watts or that consists of burners and an oven.

6g “Respite care” means care anticipated to be provided in a nursing home for a period of 28 days or less for the purpose of temporarily relieving a family member or other caregiver from his or her daily caregiving duties.

6r “Short-term care” means recuperative care or respite care provided in a nursing home.

6v “Skilled nursing services” means those services, to which all of the following apply, that are provided to a resident under a physician’s orders:

(a) The services require the skills of and are provided directly by or under the supervision of a person whose licensed, registered, certified or permitted scope of practice is at least equivalent to that of a licensed practical nurse.

(b) Any of the following circumstances exist:

1. The inherent complexity of a service prescribed for a resident is such that it can be safely and effectively performed only by or under the supervision of registered nurses or licensed practical nurses.

2. The full recovery or medical improvement of the resident is not possible, but the services are needed to prevent, to the extent...
possible, deterioration of the resident’s condition or to sustain cur-
rent capacities of the resident.
3. Because of special medical complications, performing or
supervising a service that is generally unskilled or observing the
resident necessitates the use of a person whose licensed, regis-
tered, certified or permitted scope of practice is at least equivalent
to that of a licensed practical nurse.

(7) “Violation” means a failure to comply with any provision
of this subchapter or administrative rule promulgated thereunder.
An alleged deficiency in a nursing home reported in writing to the
department by any of its authorized representatives shall not be
deemed to be a violation until the department determines it is a
violation by serving notice under s. 50.04 (4). If the facility con-
tests the department determination, the facility shall be afforded
the due process procedures in this subchapter.

History: 1975 c. 413; 1977 c. 170, 418; 1979 c. 111; 1983 a. 189 s. 329 (18); 1985
a. 29, 278; 1985 a. 332 s. 231 (1); 1987 a. 127, 161; 1989 a. 31, 136, 199; 1991 a. 39;
1993 a. 327, 446, 491, 1995 a. 27; 1999 a. 13, 27, 156, 237; 1999 a. 22, 23, 46, 74,

Cross-reference: See s. 46.031 for definitions applicable to chs. 46, 48, 50, 51,
54, 55 and 58.

Up to 7 hours of nursing care may be provided by a community-based residential
facility under sub. (1g). Hacker v. DHSS, 197 Wis. 2d 441, 541 N.W.2d 766 (1995),
93-1043.

The department can constitutionally license and regulate community-based resi-
dential facilities operated by religious organizations that are not exempt under s.
50.01 (1), 1985 stats. [now s. 50.01 (1g)] or s. 50.03 (9). 71. Att’y Gen. 112.

50.02 Department; powers and duties. (1) DEPARTMEN-
tAL AUTHORITY. The department may provide uniform, statewide
licensing, inspection, and regulation of community-based resi-
dential facilities and nursing homes as provided in this subchapter.
The department shall certify, inspect, and otherwise regulate adult
family homes, as specified under s. 50.032 and shall license adult
family homes, as specified under s. 50.033. Nothing in this sub-
chapter may be construed to limit the authority of the department
of safety and professional services or of municipalities to set stan-
dards of building safety and hygiene, but any local orders of
municipalities shall be consistent with uniform, statewide regula-
tion of community-based residential facilities. The department may
not prohibit any nursing home from distributing over-the-
counter drugs from bulk supply. The department may consult
with nursing homes as needed and may provide specialized con-
sultations when requested by any nursing home, separate from its
inspection process, to scrutinize any particular questions the nurs-
ing home raises. The department shall, by rule, define “special-
ized consultation”.

(2) STANDARDS. (a) The department, by rule, shall develop,
establish and enforce regulations and standards for the care, treat-
ment, health, safety, rights, welfare and comfort of residents in
community-based residential facilities and nursing homes 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; and promulgate and enforce rules con-
sistent with this section. Such standards and rules shall provide
that intermediate care facilities, which have 16 or fewer beds may,
if exempted from meeting certain physical plant, staffing and
other requirements of the federal regulations, be exempted from
meeting the corresponding provisions of the department’s stan-
dards and rules. The department shall consult with the department
of safety and professional services when developing exemptions
relating to physical plant requirements.

(ad) The department shall promulgate rules that require each
facility licensed under this subchapter to provide information nec-
necessary for the department to assess the facility’s compliance with
s. 55.14.

(ag) The department shall, by rule, define “Class A” and
“Class C” community-based residential facilities for the pur-
poses of s. 50.035 (3).

(am) The department shall promulgate all of the following rules with respect to adult family homes:

1. For the purposes of s. 50.032, defining the term “permanent
basis” and establishing minimum requirements for certification,
certification application procedures and forms, standards for
operation and procedures for monitoring, inspection, decertifica-
tion and appeal of decertification. The rules shall be designed to
protect and promote the health, safety and welfare of the disabled
adults receiving care and maintenance in certified adult family
homes.

2. For the purposes of s. 50.033, establishing minimum
requirements for licensure, licensure application procedures and
forms, standards for operation and procedures for monitoring,
impeachment, revocation and appeal. (b) 1. The department shall conduct plan reviews of all capital
construction and remodeling of nursing homes to ensure that the
plans comply with building code requirements under ch. 101 and
with life safety code and physical plant requirements under s.
49.498, this chapter or under rules promulgated under this chapter.

2. The department shall promulgate rules that establish a fee
schedule for its services under subd. 1. in conducting the plan
reviews. The schedule established under these rules shall set fees
for nursing home plan reviews in amounts that are less than the
sum of the amounts required on September 30, 1995, for fees
under this paragraph and fees for examination of nursing home
plans under s. 101.19 (1) (a), 1993 stats.

(bm) The department shall, by rule, define “intermediate nurs-
ing care”, “limited nursing care” and “skilled nursing services”
for use in regulating minimum hours of service provided to resi-
dents of nursing homes.

(bn) The department may, by rule, increase the minimum hours
of nursing home care per day that are specified in s. 50.04 (2) (d)
1. to 3.

(bc) If a nursing home is certified as a provider of services under s.
49.45 (2) (a) 11. and is named in a verified complaint filed with the
department stating that staffing requirements imposed on the
nursing home are not being met, the department shall, in order
to verify the staffing requirements, randomly inspect payroll
records at the nursing home that indicate the actual hours worked by per-
sonnel and the number of personnel on duty. The department may
not limit its inspection to schedules of work assignments prepared
by the nursing home.

(d) The department shall promulgate rules that prescribe all of
the following:

1. The method by which community-based residential facili-
ties shall make referrals to resource centers or county departments
under s. 50.035 (4n) and the method by which residential care
apartment complexes shall make referrals to resource centers
under s. 50.034 (5n).

2. The time period for nursing homes to provide information
to prospective residents under s. 50.04 (2g) (a) and the time period
and method by which nursing homes shall make referrals to resource centers
under s. 50.04 (2h) (a).

(3) CONSIDERATIONS IN ESTABLISHING STANDARDS AND REGU-
lATIONS. (a) The department shall establish several levels and
types of community-based residential facilities and nursing
homes as provided in par. (b), including a category or categories
designed to enable facilities to qualify for federal funds.

(b) In setting standards and regulations, the department shall
consider the residents’ needs and abilities, the increased cost in
relation to proposed benefits to be received, the services to be pro-
vided by the facility, the relationship between the physical struc-
ture and the objectives of the program conducted in the facility and
the primary functions of the facility. Recognizing that size and
structure will influence the ability of community-based resident-
ial facilities to provide a homelike environment, the legislature
courages the department to develop rules which facilitate in
particular the development of: small facilities, small living units
in larger facilities, individual residential units, independent living
to the extent possible, and integration of residents into the commu-

2017-18 Wisconsin Statutes updated through 2019 Wis. Act 184 and through all Supreme Court and Controlled Substances
Board Orders filed before and in effect on March 28, 2020. Published and certified under s. 35.18. Changes effective after March 28,
2020, are designated by NOTES. (Published 3–28–20)
(c) The department shall promulgate rules to establish a procedure for waiver of and variance from standards developed under this section. The department may limit the duration of the waiver or variance.

(d) The department shall promulgate rules to establish a procedure for the admission, evaluation and care of short-term care nursing home residents. These rules shall specify that the nursing home or community-based residential facility shall be required to provide to the department as documentation of this admission, evaluation and care only that amount of information commensurate with the length of stay and the medical needs, if any, of the particular resident.

(4) REPORTS TO THE BOARD ON AGING AND LONG-TERM CARE. The department shall submit at least one report quarterly to the board on aging and long-term care regarding enforcement actions, consultation, staff training programs, new procedures and policies, complaint investigation and consumer participation in enforcement under this subchapter and changes that may be needed under this subchapter. The department shall submit at least one report annually to the board on aging and long-term care regarding implementation of rules under sub. (3) (d).

(5) DEATH INVESTIGATION. No later than 14 days after the date of a death reported under s. 50.035 (5) (b) or 50.04 (2t) (b), the department shall investigate the death.

History:

Cross-reference: See also ch. DHS 132 and 134, Wis. adm. code.

A municipal ordinance that required registration of nursing homes was in direct conflict with sub. (1) and, therefore, invalid. Volunteers of America v. Village of Brown Deer, 97 Wis. 2d 619, 294 N.W.2d 44 (Ct. App. 1980).

Sub. (2) (am) 2. provides that the rules for appealing the revocation of an adult family home operating license are determined by DHS. Pursuant to this authority, DHS promulgated a rule that states that an appeal from a license revocation must be received within 10 days after the date of the notice. Section 801.15 (1) (b), which provides that when a deadline is less than 11 days, weekends and holidays are excluded from the counting period, only applies to proceedings before a circuit court and has no application to an appeal before an administrative agency. Baker v. Department of Health Services, 2012 WI App 71, 342 Wis. 2d 174, 816 N.W.2d 337, 11–1529.

The state has given the department preemptive authority over community-based residential facilities and nursing homes. 68 Atty. Gen. 45.

50.025 Plan reviews. The department may conduct plan reviews of all capital construction and remodeling of community-based residential facilities. The department shall promulgate rules that establish a fee schedule for its services in conducting the plan reviews.

History:
1977 c. 29; 1977 c. 170 ss. 7, 9; 1993 a. 16.

50.03 Licensing, powers and duties. (1) PENALTY FOR UNLICENSED OPERATION. No person may conduct, maintain, operate or permit to be maintained or operated a community-based residential facility or nursing home unless it is licensed by the department. Any person who violates this subsection may, upon a first conviction, be fined not more than $500 for each day of unlicensed operation or imprisonment not more than 6 months or both. Any person convicted of a subsequent offense under this subsection may be fined not more than $5,000 for each day of unlicensed operation or imprisoned not more than one year in the county jail or both.

1m. DISTINCT PART OR SEPARATE LICENSURE FOR INSTITUTIONS FOR MENTAL DISEASES. Upon application to the department, the department may approve licensure of the operation of a nursing home or a distinct part of a nursing home as an institution for mental diseases, as defined under 42 CFR 435.1009. Conditions and procedures for application for, approval of and operation under licensure under this subsection shall be established in rules promulgated by the department.

(2) ADMINISTRATION. (a) The department shall make or cause to be made such inspections and investigations as it deems necessary.
receive the complaints and the department shall have all the pow-
er and duties granted to the county department in this section.
(2m) SERVICE OF NOTICES. (a) Each licensee, registrant, or
holder of a certificate or applicant for licensure, certification, or
registration by the department under this subchapter shall file with
the department the name and address of a person authorized to
accept service of any notices or other papers which the department
may send by registered or certified mail, with a return receipt
requested, or by mail or electronic mail, with a return acknowl-
edgement requested. The person authorized by a nursing home
under this paragraph shall be located at the nursing home.
(b) Notwithstanding s. 879.05, whenever in this subchapter the
department is required to serve any notice or other paper on a
licensee or applicant for license, proper service is personal service
or, if made to the most recent address on file with the department
under par. (a), is the sending of the notice or paper by one of the
following means:
1. By registered or certified mail, with a return receipt
requested.
2. By mail or electronic mail, with a return acknowledgement
requested.
(3) APPLICATION FOR REGISTRATION AND LICENSE. (am) In this
subsection, “managing employee” means a general manager,
business manager, administrator, director or other individual who
exercises operational or managerial control over, or who directly
or indirectly conducts, the operation of the facility.
(b) The application for a license and, except as otherwise pro-
vided in this subchapter, the report of a licensee shall be in writing
upon forms provided by the department and shall contain such
information as the department requires, including the name,
address and type and extent of interest of each of the following
persons:
1. All managing employees and, if any, the director of nursing
of the facility.
2. Any person who, directly or indirectly, owns any interest
in any of the following:
a. The partnership, corporation or other entity which operates
the facility;
b. The profits, if any, of the facility;
c. The building in which the facility is located;
d. The land on which the facility is located;
e. Any mortgage, note, deed of trust or other obligation
secured in whole or in part by the land on which or building in
which the facility is located, except that disclosure of the disburse-
ments of a secured mortgage, note, deed of trust or other obliga-
ton is not required; and
f. Any lease or sublease of the land on which or the building
in which the facility is located.
3. If any person named in response to subd. 1. or 2. is a part-
nership, then each partner.
3L. If any person named in response to subd. 1. or 2. is a lim-
ited liability company, then each member.
4. If any person named in response to subd. 1. or 2. is a corpo-
ration, then each officer and director of the corporation. In the
case of a corporation required to report under section 12 of the
securities exchange act, a copy of that report shall meet the
required in what this subdivision with respect to stockholders of
the corporation. A report filed under this subdivision shall be the
most recent report required to be filed under section 12 of the fed-
eral securities exchange act.
(c) If any person named in response to par. (b) 2. is a bank,
credit union, savings bank, savings and loan association, invest-
ment association or insurance corporation, it is sufficient to name
the entity involved without providing the information required
under par. (b) 4.
(d) The licensee shall promptly report any changes which
affect the continuing accuracy and completeness of the informa-
tion required under par. (b).
complete report within 60 days after the report date established under the schedule determined by the department.

2. A nursing home license is valid until it is revoked or suspended under this section. Every 12 months, on a schedule determined by the department, a nursing home licensee shall submit a report in the form and containing the information that the department requires, including payment of the fee required under s. 50.135 (2) (a). If a complete report is not timely filed, the department shall issue a warning to the licensee. The department may revoke a nursing home license for failure to timely and completely report within 60 days after the report date established under the schedule determined by the department.

(d) Immediately upon the denial of any application for a license under this section, the department shall notify the applicant in writing. Notice of denial shall include a clear and concise statement of the violations on which denial is based and notice of the opportunity for a hearing under s. 227.44. If the applicant desires to contest the denial of a license it shall provide written notice to the department of a request for a hearing within 10 days after receipt of the notice of denial.

(e) Each license shall be issued only for the premises and persons named in the application and is not transferable or assignable. The license shall be posted in a place readily visible to residents and visitors, such as the lobby or reception area of the facility. Any license shall state the number of the facility’s beds licensed by the department, the person to whom the license is granted, the date of issuance, the maximum level of care for which the facility is licensed as a condition of its licensure and such additional information and special conditions as the department may prescribe.

(f) The issuance or continuance of a license after notice of a violation has been sent shall not constitute a waiver by the department of its power to rely on the violation as the basis for subsequent license revocation or other enforcement action under this subchapter arising out of the notice of violation.

(g) Prior to initial licensure of a community–based residential facility, the applicant for licensure shall make a good faith effort to establish a community advisory committee consisting of representatives from the proposed community–based residential facility, the neighborhood in which the proposed community–based residential facility will be located and a local unit of government. The community advisory committee shall provide a forum for communication for those persons interested in the proposed community–based residential facility. Any committee established under this paragraph shall continue in existence after licensure to make recommendations to the licensee regarding the impact of the community–based residential facility on the neighborhood. The department shall determine compliance with this paragraph both prior to and after initial licensure.

(4m) Probationary license. (a) If the applicant for licensure as a nursing home has not been previously licensed under this subchapter or if the nursing home is not in operation at the time application is made, the department shall issue a probationary license. A probationary license shall be valid for 12 months from the date of issuance unless sooner suspended or revoked under sub. (5). Prior to the expiration of a probationary license, the department shall inspect the nursing home and, if the nursing home meets the applicable requirements for licensure and, if applicable, substantially complies with requirements under 42 CFR 483 related to the operation of a nursing home, shall issue a regular license under sub. (4) (a) 1. If the department finds that the nursing home does not meet the requirements for licensure or does not substantially comply with requirements under 42 CFR 483 related to the operation of a nursing home, the department may not issue a regular license under sub. (4) (a) 1.

(b) If the applicant for licensure as a community–based residential facility has not been previously licensed under this subchapter or if the community–based residential facility is not in operation at the time application is made, the department shall issue a probationary license, except that the department may deny licensure to any person who conducted, maintained, operated or permitted to be maintained or operated a community–based residential facility for which licensure was revoked within 5 years before application is made. A probationary license shall be valid for up to 12 months from the date of issuance unless sooner suspended or revoked under sub. (5g). Prior to the expiration of a probationary license, the department shall evaluate the community–based residential facility. In evaluating the community–based residential facility, the department may conduct an inspection of the community–based residential facility. If, after the department evaluates the community–based residential facility, the department finds that the community–based residential facility meets the applicable requirements for licensure, the department shall issue a regular license under sub. (4) (a) 1. b. If the department finds that the community–based residential facility does not meet the requirements for licensure, the department may not issue a regular license under sub. (4) (a) 1. b.

(5) Suspension and revocation of nursing home licenses.

(a) Power of department. The department, after notice to a nursing home applicant or licensee, may suspend or revoke a license in any case in which the department finds that the nursing home has substantially failed to comply with the applicable requirements of this subchapter or any of the rules promulgated under this subchapter, with s. 49.498, or with requirements under 42 CFR 483 related to the operation of a nursing home. No state or federal funds passing through the state treasury may be paid to a nursing home that does not have a valid license issued under this section.

(b) Form of notice. Notice under this subsection shall include a clear and concise statement of the violations on which the revocation is based, the statute, rule, or federal requirement violated and notice of the opportunity for an evidentiary hearing under par. (c).

(c) Contest of revocation. If a nursing home desires to contest the revocation of a license, the nursing home shall, within 10 days after receipt of notice under par. (b), notify the department in writing of its request for a hearing under s. 227.44. The department shall hold the hearing within 30 days of receipt of such notice and shall send notice to the nursing home of the hearing as provided under s. 227.44 (2).

(d) Effective date of revocation. 1. Subject to s. 227.51 (3), revocation under this subsection shall become effective on the date set by the department in the notice of revocation, or upon final action after hearing under ch. 227, or after court action if a stay is granted under sub. (11), whichever is later.

3. The department may extend the effective date of license revocation in any case in order to permit orderly removal and relocation of residents of the nursing home.

(5g) Sanctions and penalties for community–based residential facilities. (a) In this subsection, “licensee” means a community–based residential facility that is licensed under sub. (4) or (4m) (b).

(b) If, based on an investigation made by the department, the department provides to a community–based residential facility written notice of the grounds for a sanction, an explanation of the types of sanctions that the department may impose under this subsection and an explanation of the process for appealing a sanction imposed under this subsection, the department may order any of the following sanctions:

1. That a person stop conducting, maintaining or operating the community–based residential facility if the community–based residential facility is without a valid license or probationary license in violation of sub. (1).

2. That, within 30 days after the date of the order, the community–based residential facility terminate the employment of any employee who conducted, maintained, operated or permitted to be maintained or operated a community–based residential facility for which licensure was revoked before issuance of the
department’s order. This subdivision includes employment of a person in any capacity, whether as an officer, director, agent or employee of the community–based residential facility.

3. That a licensee stop violating any provision of license applicable to a community–based residential facility under sub. (4) or (4m) or of rules relating to community–based residential facilities promulgated by the department under sub. (4) or (4m).

4. That a licensee submit a plan of correction for violation of any provision of license applicable to a community–based residential facility under sub. (4) or (4m) or of a rule relating to community–based residential facilities promulgated by the department under sub. (4) or (4m).

5. That a licensee implement and comply with a plan of correction previously submitted by the licensee and approved by the department.

6. That a licensee implement and comply with a plan of correction that is developed by the department.

7. That a licensee accept no additional residents until all violations are corrected.

8. That a licensee provide training in one or more specific areas for all of the licensee’s staff or for specific staff members.

(c) If the department provides to a community–based residential facility written notice of the grounds for a sanction or penalty, an explanation of the types of sanctions or penalties that the department may impose under this subsection and an explanation of the process for appealing a sanction or penalty imposed under this subsection, the department may impose any of the following against a licensee or other person who violates the applicable provisions of this section or rules promulgated under the applicable provisions of this section or who fails to comply with an order issued under par. (b) by the time specified in the order:

(1) A daily forfeiture amount per violation of not less than $10 nor more than $1,000 for each violation, with each day of violation constituting a separate offense. All of the following apply to a forfeiture under this subdivision:

(a) Within the limits specified in this subdivision, the department may, by rule, set daily forfeiture amounts and payment deadlines based on the size and type of community–based residential facility and the seriousness of the violation. The department may set daily forfeiture amounts that increase periodically within the statutory limits if there is continued failure to comply with an order issued under par. (b).

(b) The department may directly assess a forfeiture imposed under this subdivision by specifying the amount of that forfeiture in the notice provided under this paragraph.

(c) All forfeitures shall be paid to the department within 10 days after receipt of notice of assessment or, if the forfeiture is contested under par. (f), within 10 days after receipt of the final decision after exhaustion of administrative review, unless the final decision is appealed and the order is stayed by court order under s. 50.03 (11). The department shall remit all forfeitures paid under this subdivision to the secretary of administration for deposit in the school fund.

(d) The attorney general may bring an action in the name of the state to collect any forfeiture imposed under this subdivision if the forfeiture has not been paid following the exhaustion of all administrative and judicial reviews. The only issue to be contested in any such action shall be whether the forfeiture has been paid.

2. Suspension of licensure for the community–based residential facility for 14 days.

3. Revocation of licensure, as specified in pars. (d) to (g).

(cm) If the department imposes a sanction on or takes other enforcement action against a community–based residential facility for a violation of this subsection or rules promulgated under it, and the department subsequently conducts an on–site inspection of the community–based residential facility to review the community–based residential facility’s action to correct the violation, the department may impose a $200 inspection fee on the community–based residential facility.

(d) Under the procedure specified in par. (e), the department may revoke a license for a licensee for any of the following reasons:

1. The department has imposed a sanction or penalty on the licensee under par. (c) and the licensee continues to violate or resumes violation of a provision of license applicable to a community–based residential facility under sub. (4) or (4m), a rule promulgated under this subchapter or an order issued under par. (b) that forms any part of the basis for the penalty.

2. The licensee or a person under the supervision of the licensee has substantially violated a provision of license applicable to a community–based residential facility under sub. (4) or (4m), a rule relating to community–based residential facilities promulgated under this subchapter or an order issued under par. (b).

3. The licensee or a person under the supervision of the licensee has acted in relation to or has created a condition relating to the operation or maintenance of the community–based residential facility that directly threatens the health, safety or welfare of a resident of the community–based residential facility.

4. The licensee or a person under the supervision of the licensee has repeatedly violated the same or similar provisions of licensure under sub. (4) or (4m), rules promulgated under this subchapter or orders issued under par. (b).

(e) 1. The department may revoke a license for a licensee for the reason specified in par. (d) 1., 2., 3. or 4. if the department provides the licensee with written notice of revocation, the grounds for the revocation and an explanation of the process for appealing the revocation, at least 30 days before the date of revocation. The department may revoke the license only if the violation remains substantially uncorrected on the date of revocation or license expiration.

2. The department may revoke a license for a licensee for the reason specified in par. (d) 2. or 3. immediately if the department provides the licensee with written notice of revocation, the grounds for the revocation and an explanation of the process for appealing the revocation.

3. The department may deny a license for a licensee whose license was revoked under this paragraph.

(f) If a community–based residential facility desires to contest the revocation of a license or to contest the imposing of a sanction under this subsection, the community–based residential facility shall, within 10 days after receipt of notice under par. (e), notify the department in writing of its request for a hearing under s. 227.44. The department shall hold the hearing within 30 days after receipt of such notice and shall send notice to the community–based residential facility of the hearing as provided under s. 227.44 (2).

(g) 1. Subject to s. 227.51 (3), revocation shall become effective on the date set by the department in the notice of revocation, or upon final action after hearing under ch. 227, or after court action if a stay is granted under sub. (11), whichever is later.

3. The department may extend the effective date of license revocation in any case in order to permit orderly removal and relocation of residents.

(5m) RESIDENT REMOVAL. (a) DEPARTMENTAL AUTHORITY. The department may remove any resident from any facility required to be licensed under this chapter when any of the following conditions exist:

1. Such facility is operating without a license.

2. The department has suspended or revoked the existing license of the facility as provided under sub. (5).

3. The department has initiated revocation procedures under sub. (5) and has determined that the lives, health, safety, or welfare of the resident cannot be adequately assured pending a full hearing on license revocation under sub. (5).
4. The facility has requested the aid of the department in the removal of the resident and the department finds that the resident consents to removal or that the removal is made for valid medical reasons or for the welfare of the resident or of other residents.

5. The facility is closing, intends to close or is changing its type or level of services or means of reimbursement accepted and will relocate at least 5 residents or 5 percent of the residents, whichever is greater.

6. The department determines that an emergency exists which requires immediate removal of the resident. An emergency is a situation, physical condition or one or more practices, methods or operations which presents imminent danger of death or serious physical or mental harm to a resident of a facility.

(b) Removal decision. In deciding to remove a resident from a facility under this subsection, the department shall balance the likelihood of serious harm to the resident which may result from the removal against the likelihood of serious harm which may result if the resident remains in the facility.

(c) Relocation. The department shall offer removal and relocation assistance to residents removed under this section, including information on available alternative placements. Residents shall be involved in planning the removal and shall choose among the available alternative placements, except that where an emergency situation makes prior resident involvement impossible the department may make a temporary placement until a final placement can be arranged. Residents may choose their final alternative placement and shall be given assistance in transferring to such place. No resident may be forced to remain in a temporary or permanent placement except pursuant under s. 55.06, 2003 stats., or an order under s. 55.12 for protective placement. Where the department makes or participates in making the relocation decision, consideration shall be given to proximity to residents’ relatives and friends.

(d) Transfer trauma mitigation. The department shall prepare resident removal plans and transfer trauma mitigation care plans to assure safe and orderly removals and protect residents’ health, safety, welfare and rights. In emergency situations, and where possible in emergency situations, the department shall design transfer trauma mitigation care plans for the individual resident and implement such care in advance of removal. The resident shall be provided with opportunity for 3 visits to potential alternative placements prior to removal, except where medically contraindicated or where the need for immediate removal requires reduction in the number of visits.

(e) Relocation teams. The department may place relocation teams in any facility from which residents are being removed, discharged or transferred for any reason, for the purpose of implementing removal plans and training the staffs of transferring and receiving facilities in transfer trauma mitigation.

(f) Nonemergency removal procedures. In any removal conducted under par. (a) 1. to 5., the department shall provide written notice to the facility and to any resident sought to be removed, to the resident’s guardian, if any, and to a member of the resident’s family, where practicable, prior to the removal. The notice shall state the basis for the order of removal and shall inform the facility and the resident or the resident’s guardian, if any, of their right to a hearing prior to removal. The facility and the resident or the resident’s guardian, if any, shall advise the department in writing within 10 working days following receipt of notice if a hearing is requested.

(g) Emergency removal procedures. In any removal conducted under par. (a) 6., the department shall notify the facility and any resident to be removed that an emergency situation has been found to exist and removal has been ordered, and shall involve the residents in removal planning if possible. Following emergency removal, the department shall provide written notice to the facility, to the resident, to the resident’s guardian, if any, and to a member of the resident’s family, where practicable, of the basis for the finding that an emergency existed and of the right to challenge removal under par. (h).

(b) Hearing. Within 10 days following removal under par. (g), the facility may send a written request for a hearing to challenge the removal to the department. The department shall hold the hearing within 30 days of receipt of the request. Where the challenge is by a resident, the hearing shall be held prior to removal at a location convenient to the resident. At the hearing, the burden of proving that a factual basis existed for removal under par. (a) shall rest on the department. If the facility prevails, it shall be reimbursed by the department for payments lost less expenses saved as a result of the removal and the department shall assist the resident in returning to the facility, if assistance is requested. No resident removed may be held liable for the charge for care which would have been made had the resident remained in the facility. The department shall assume this liability, if any. If a resident prevails after hearing, the department shall reimburse the resident for any excess expenses directly caused by the order to remove.

(i) County as agent. The department may authorize the county in which the facility is located to carry out, under the department’s supervision, any powers and duties conferred upon the department in this subsection.

(7) Right of injunction. (a) Licensed facility. Notwithstanding the existence or pursuit of any other remedy, the department may, upon the advice of the attorney general, maintain an action in the name of the state in the circuit court for injunction or other process against any licensee, owner, operator, administrator or representative of any owner of a facility to restrain and enjoin the repeated violation of any of the provisions of this subchapter, rules promulgated by the department under this subchapter, or requirements under 42 CFR 483 related to the operation of a nursing home where the violation affects the health, safety or welfare of the residents.

(b) Unlicensed facility. Notwithstanding the existence or pursuit of any other remedy, the department may, upon the advice of the attorney general, maintain an action in the name of the state for injunction or other process against any person or agency to restrain or prevent the establishment, management or operation of any facility required to be licensed under this section without a license.

(c) Enforcement by counties maintaining inspection programs. The county board of any county conducting inspections under sub. (2) (b) may, upon notifying the department that a facility is in violation of this subchapter or the rules promulgated under this subchapter, authorize the district attorney to maintain an action in the name of the state in circuit court for injunction or other process against the facility, its owner, operator, administrator or representative, to restrain and enjoin repeated violations where the violations affect the health, safety or welfare of the residents.

(8) Exception for churches opposed to medical treatment. Nothing in this section shall be so construed as to give authority to supervise or regulate or control the remedial care or treatment of individual patients who are adherents of a church or religious denomination which subscribes to the act of healing by prayer and the principles of which are opposed to medical treatment and who are residents in any facility operated by a member or members, or by an association or corporation composed of members of such church or religious denomination, if the facility admits only adherents of such church or denomination and is so designated; nor shall the existence of any of the above conditions alone mitigate against the licensing of such a home or institution. Such facility shall comply with all rules and regulations relating to sanitation and safety of the premises and be subject to inspection thereof. Nothing in this subsection shall modify or repeal any laws, rules and regulations governing the control of communicable diseases.

(10) Uniform accounting system. The department shall establish a uniform classification of accounts and accounting procedures for each level of licensure which shall be based on generally accepted accounting principles and which reflect the alloca-
tion of revenues and expenses by primary functions, to be used by the department in carrying out this subsection and s. 49.45. Each facility subject to this subsection or s. 49.45 shall satisfactorily establish with the department by a date set by the department that it has instituted the uniform accounting system as required in this subsection or is making suitable progress in the establishment of each system.

(11) JUDICIAL REVIEW. (a) All administrative remedies shall be exhausted before an agency determination under this subchapter shall be subject to judicial review. Final decisions after hearing shall be subject to judicial review exclusively as provided in s. 227.52, except that any petition for review of department action under this chapter shall be filed within 15 days after receipt of notice of the final agency determination.

(b) The court may stay enforcement under s. 227.54 of the department’s final decision if a showing is made that there is a substantial probability that the party seeking review will prevail on the merits and will suffer irreparable harm if a stay is not granted, and that the facility will meet the requirements of this subchapter and the rules promulgated under this subchapter during such stay. Where a stay is granted the court may impose such conditions on the granting of the stay as may be necessary to safeguard the lives, health, rights, safety and welfare of residents, and to assure compliance by the facility with the requirements of this subchapter.

(d) The attorney general may delegate to the department the authority to represent the state in any action brought to challenge department decisions prior to exhaustion of administrative remedies and final disposition by the department.

(12) TRANSFER OF OWNERSHIP. New license. Whenever ownership of a facility is transferred from the person or persons named in the license to any other person or persons, the transferee must obtain a new license. The license may be a probationary license. Penalties under sub. (1) shall apply to violations of this subsection. The transferee shall notify the department of the transfer, file an application under sub. (3) (b), and apply for a new license at least 30 days prior to final transfer. Retention of any interest required to be disclosed under sub. (3) (b) after transfer by any person who held such an interest prior to transfer may constitute grounds for denial of a license where violations of this subchapter, or of requirements of 42 CFR 483 related to the operation of a nursing home, for which notice had been given to the transferor are outstanding and uncorrected, if the department determines that effective control over operation of the facility has not been transferred. If the transferor was a provider under s. 49.43 (10), the transferee and transferor shall comply with s. 49.45 (21).

(b) Duty of transferor. The transferor shall notify the department at least 30 days prior to final transfer. The transferor shall remain responsible for the operation of the home until such time as a license is issued to the transferee, unless the facility is voluntarily closed as provided under sub. (14). The transferor shall also disclose to the transferee the existence of any outstanding waiver or variance and the conditions attached to such waiver or variance.

(c) Outstanding violations. Violations reported in departmental inspection reports prior to the transfer of ownership shall be corrected, with corrections verified by departmental survey, prior to the issuance of a full license to the transferee. The license granted to the transferee shall be subject to the plan of correction submitted by the previous owner and approved by the department and any conditions contained in a conditional license issued to the previous owner. In the case of a nursing home, if there are outstanding violations and no approved plan of correction has been implemented, the department may issue a conditional license and plan of correction as provided in s. 50.04 (6).

(d) Forfeitures. The transferor shall remain liable for all forfeitures assessed against the facility which are imposed for violations occurring prior to transfer of ownership.

(14) CLOSING OF A FACILITY. If any facility acts as specified under sub. (5m) (a) 5.: (a) The department may provide, direct or arrange for relocation planning, placement and implementation services in order to minimize the trauma associated with the relocation of residents and to ensure the orderly relocation of residents.

(b) The county departments of the county in which the facility is located that are responsible for providing services under s. 46.215 (1) (L), 46.22 (1) (b) 1. c., 51.42 or 51.437 shall participate in the development and implementation of individual relocation plans. Any county department of another county shall participate in the development and implementation of individual relocation plans in place of the county departments of the county in which the facility is located, if the county department accepts responsibility for the resident or is delegated responsibility for the resident by the department or by a court.

(c) The facility shall:
1. Provide at least 30 days’ written notice prior to relocation to each resident who is to be relocated, to the resident’s guardian, if any, and to a member of the resident’s family, if practicable, unless the resident requests that notice to the family be withheld.
2. Attempt to resolve complaints from residents under this section.
3. Identify and, to the greatest extent practicable, attempt to secure an appropriate alternate placement for each resident to be relocated.
4. Consult the resident’s physician on the proposed relocation’s effect on the resident’s health.
5. Hold a planning conference at which an individual relocation plan will be developed with the resident, with the resident’s guardian, if any, and with a member of the resident’s family, if practicable, unless the resident requests that a family member not be present.
6. Implement the individual relocation plan developed under subd. 5.
7. Notify the department of its intention to relocate residents. The notice shall state the facts requiring the proposed relocation of residents and the proposed date of closing or changing of the type or level of services or means of reimbursement.
8. At the time the facility notifies the department under subd. 7., submit to the department a preliminary plan that includes:
   a. The proposed timetable for planning and implementation of relocations and the resources, policies and procedures that the facility will provide or arrange in order to plan and implement the relocations.
   b. A list of the residents to be relocated and their current levels of care and a brief description of any special needs or conditions.
   c. An indication of which residents have guardians and the names and addresses of the guardians.
   d. A list of which residents have been protectively placed under ch. 55.
   e. A list of the residents whom the facility believes to meet the requirements of s. 54.10 (3).
(d) The department shall notify the facility within 10 days after receiving the preliminary plan under par. (c) 8., if it disapproves the plan. If the department does not notify the facility of disapproval, the plan is deemed approved. If the department disapproves the preliminary plan it shall, within 10 days of notifying the facility, begin working with the facility to modify the disapproved plan. No residents may be relocated until the department approves the preliminary plan or until a modified plan is agreed upon. If a plan is not approved or agreed upon within 30 days of receipt of the notice of relocation, the department may impose a plan that the facility shall carry out. Failure to submit, gain approval for or implement a plan in a timely fashion is not a basis for a facility to declare an emergency under sub. (5m) (a) 6. or to relocate any resident under sub. (5m) (g).

(e) Upon approval of, agreement to or imposition of a plan for relocation, the facility shall establish a date of closing or changing...
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of the type or level of services or means of reimbursement and shall notify the department of the date. The date may not be earlier than 90 days from the date of approval, agreement or imposition if 5 to 50 residents will be relocated, or 120 days from the date of approval, agreement or imposition if more than 50 residents will be relocated.


The department can constitutionally license and regulate community-based residential facilities that are operated by religious organizations and that are not exempt convents or similar facilities under s. 50.01 (1) [now s. 50.01 (1g)] or s. 50.03 (9), 71 Att'y Gen. 112.

50.032 Certification of certain adult family homes. (1g) DEFINITION. In this section, “adult family home” has the meaning given in s. 50.01 (1) (a).

(1m) CERTIFICATION. (a) No person may operate an adult family home unless the adult family home is certified under this section.

(b) A county department under s. 46.215, 46.22, 46.23, 51.42 or 51.437 may certify an adult family home that is located in the county. The department shall certify an adult family home in a county that elects not to certify adult family homes.

(2) REGULATION. Except as provided in sub. (2d), standards for operation of certified adult family homes and procedures for application for certification, monitoring, inspection, decertification and appeal of decertification under this section shall be under rules promulgated by the department under s. 50.02 (2) (am) 1. An adult family home certification is valid until decertified under this section. Certification is not transferable.

(2d) ACCOMPANIMENT OR VISITATION. If an adult family home has a policy on who may accompany or visit a patient, the adult family home shall extend the same right of accompanying or visitation to a patient’s domestic partner under ch. 770 as is accorded the spouse of a patient under the policy.

(2m) EXCEPTION. Notwithstanding s. 50.01 (1g) (b), if an individual served in an adult family home attains 18 years of age and leaves the adult family home on a permanent basis, as defined in rules promulgated by the department, he or she may be replaced for receipt of service by an individual who has a developmental disability, as defined in s. 51.01 (5).

(2r) REPORTING. Every 12 months, on a schedule determined by the department, a certified adult family home shall submit an annual report in the form and containing the information that the department requires, including payment of a fee, if any is required under rules promulgated under s. 50.02 (2) (am) 1.

If a complete annual report is not timely filed, the department shall issue a warning to the operator of the certified adult family home. The department may decertify a certified adult family home for failure to timely and completely report within 60 days after the report date established under the schedule determined by the department.

(3) INVESTIGATION OF ALLEGED VIOLATIONS. If the department or a certifying county department under sub. (1m) (b) is advised or has reason to believe that any person is violating this section or the rules promulgated under s. 50.02 (2) (am) 1., the department or the certifying county department shall make an investigation to determine the facts. For the purposes of this investigation, the department or the certifying county department may inspect the premises where the violation is alleged to occur. If the department or the certifying county department finds that the requirements of this section and of rules under s. 50.02 (2) (am) 1. are met, the department or the certifying county department may decertify the premises under this section. If the department or the certifying county department finds that a person is violating this section or the rules under s. 50.02 (2) (am) 1., the department or the certifying county department may institute an action under sub. (5) or (6).

(4) DECERTIFICATION. A certified adult family home may be decertified because of the substantial and intentional violation of this section or of rules promulgated by the department under s. 50.02 (2) (am) 1. or because of failure to meet the minimum requirements for certification. The operator of the certified adult family home shall be given written notice of any decertification and the grounds for the decertification. Any adult family home certification applicant or operator of a certified adult family home may, if aggrieved by the failure to issue the certification or by decertification, appeal under the procedures specified by the department by rule under s. 50.02 (2) (am) 1.

(5) INJUNCTION. The department or a certifying county department under s. 46.215, 46.22, 46.23, 51.42 or 51.437 may commence an action in circuit court to enjoin the operation of an adult family home that is not certified under sub. (1m) or that is certified and has repeatedly used methods of operation in substantial violation of the rules promulgated under s. 50.02 (2) (am) 1. or that endanger the health, safety or welfare of any disabled adult receiving care and maintenance in an adult family home.

(6) PENALTIES. Any person who violates this section or rules promulgated under s. 50.02 (2) (am) 1. may be fined not more than $500 or imprisoned for not more than one year in the county jail or both.


50.033 Licensure of certain adult family homes. (1) DEFINITION. In this section, “adult family home” has the meaning given in s. 50.01 (1) (b).

(1m) LICENSURE. (a) No person may operate an adult family home unless the adult family home is licensed under this section.

(b) A county department under s. 46.215, 46.22, 46.23, 51.42 or 51.437 may license an adult family home that is located in the county. The department shall license an adult family home in a county that elects not to license adult family homes.

(2) REGULATION. Except as provided in sub. (2d), standards for operation of licensed adult family homes and procedures for application for licensure, monitoring, inspection, revocation and appeal of revocation under this section shall be under rules promulgated by the department under s. 50.02 (2) (am) 2. An adult family home licensure is valid until revoked under this section. Licensure is not transferable. The biennial licensure fee for a licensed adult family home is $171, except that the department may, by rule, increase the amount of the fee. The fee is payable to the county department under s. 46.215, 46.22, 46.23, 51.42 or 51.437, if the county department licenses the adult family home under sub. (1m) (b), and is payable to the department, on a schedule determined by the department if the department licenses the adult family home under sub. (1m) (b).

(2d) ACCOMPANIMENT OR VISITATION. If an adult family home has a policy on who may accompany or visit a patient, the adult family home shall extend the same right of accompanying or visitation to a patient’s domestic partner under ch. 770 as is accorded the spouse of a patient under the policy.

(2m) REPORTING. Every 24 months, on a schedule determined by the department, a licensed adult family home shall submit through an online system prescribed by the department a biennial report in the form and containing the information that the department requires, including payment of any fee due under sub. (2). If a complete biennial report is not timely filed, the department shall issue a warning to the licensee. The department may revoke the license for failure to timely and completely report within 60 days after the report date established under the schedule determined by the department.

(3) INVESTIGATION OF ALLEGED VIOLATIONS. When the department or a licensing county department under sub. (1m) (b) is advised or has reason to believe that any person is violating this section or the rules promulgated under s. 50.02 (2) (am) 2., the department or the licensing county department shall make an investigation to deter-
mine the facts. For the purposes of this investigation, the department or the licensing county department may inspect the premises where the violation is alleged to occur. If the department or the licensing county department finds that the requirements of this section and of rules under s. 50.02 (2) (am) 2. are met, the department or the licensing county department may, if the premises are not licensed, license the premises under this section. If the department or the licensing county department finds that a person is violating this section or the rules promulgated under s. 50.02 (2) (am) 2., the department or the licensing county department may institute an action under sub. (5). If the department takes enforcement action against an adult family home for violating this section or rules promulgated under s. 50.02 (2) (am) 2., and the department subsequently conducts an on-site inspection of the adult family home to review the adult family home’s action to correct the violation, the department may impose a $200 inspection fee on the adult family home.

(4) LICENSE REVOCATION. The license of a licensed adult family home may be revoked because of the substantial and intentional violation of this section or of rules promulgated by the department under s. 50.02 (2) (am) 2. or because of failure to meet the minimum requirements for licensure. The operator of the licensed adult family home shall be given written notice of any revocation and the grounds for the revocation. Any adult family home licensure applicant or operator of a licensed adult family home may, if aggrieved by the failure to issue the license or by revocation, appeal under the procedures specified by the department by rule under s. 50.02 (2) (am) 2.

(5) INJUNCTION. The department or a licensing county department under s. 46.215, 46.22, 46.23, 51.42 or 51.437 may commence an action in circuit court to enjoin the operation of an adult family home that is not licensed under sub. (1m) or that is licensed and has repeatedly used methods of operation in substantial violation of the rules promulgated under s. 50.02 (2) (am) 2. or that endanger the health, safety or welfare of any adult receiving care and maintenance in an adult family home.

(6) PENALTIES. Any person who violates this section or rules promulgated under s. 50.02 (2) (am) 2. may be fined not more than $500 or imprisoned for not more than one year in the county jail or both.


Cross-reference: See also ch. DHS 88, Wis. adm. code.

50.034 Residential care apartment complexes.

(1) CERTIFICATION OR REGISTRATION REQUIRED. (a) No person may operate a residential care apartment complex that provides living space for residents who are clients under s. 46.277 and publicly funded services as a home health agency or under contract with a county department under s. 46.215, 46.22, 46.23, 51.42 or 51.437 that is a home health agency unless the residential care apartment complex is certified by the department under this section. The department may charge a fee, in an amount determined by the department, for certification under this paragraph. The amount of any fee charged by the department for certification of a residential care apartment complex need not be promulgated as a rule under ch. 227.

(b) No person may operate a residential care apartment complex that is not certified as required under par. (a) unless the residential care apartment complex is registered by the department.

(2) RULES. The department shall promulgate all of the following rules for the regulation of certified residential care apartment complexes and for the registration of residential care apartment complexes under this section:

(b) Establishing standards for operation of certified residential care apartment complexes.

(c) Establishing minimum information requirements for registration and registration application procedures and forms for residential care apartment complexes that are not certified.

(d) Establishing procedures for monitoring certified residential care apartment complexes.

(e) Establishing intermediate sanctions and penalties for and standards and procedures for imposing intermediate sanctions or penalties on certified residential care apartment complexes and for appeals of intermediate sanctions or penalties.

(f) Establishing standards and procedures for appeals of revocations of certification or refusal to issue or renew certification.

(2m) REPORTING. Every 24 months, on a schedule determined by the department, a residential care apartment complex shall submit through an online system prescribed by the department a report in the form and containing the information that the department requires, including payment of any fee required under sub. (1).

If a complete report is not timely filed, the department shall issue a warning to the operator of the residential care apartment complex. The department may revoke a residential care apartment complex’s certification or registration for failure to timely and completely report within 60 days after the report date established under the schedule determined by the department. Notwithstanding the reporting schedule under this subsection, a certified residential care apartment complex shall continue to pay required fees on the schedule established in rules promulgated by the department.

(3) REQUIREMENTS FOR OPERATION. A certified or registered residential care apartment complex shall do all of the following:

(a) Establish, with each resident of the residential care apartment complex, a mutually agreed-upon written service agreement that identifies the services to be provided to the resident, based on a comprehensive assessment of the resident’s needs and preferences that is conducted by one of the following:

2. For residents for whom services are reimbursable under s. 46.277, by the county department under s. 46.277 (4) (a) (a) in the county.

3. For residents who have private or 3rd-party funding, by the residential care apartment complex.

(b) Establish a schedule of fees for services to residents of the residential care apartment complex.

(c) Provide or ensure the provision of services that are sufficient and qualified to meet the needs identified in a resident’s service agreement under par. (a), to meet unscheduled care needs and to provide emergency assistance 24 hours a day.

(d) Establish, with each resident of the residential care apartment complex, a signed, negotiated risk agreement that identifies situations that could put the resident at risk and for which the resident understands and accepts responsibility.

(e) If a residential care apartment complex has a policy on who may accompany or visit a patient, the residential care apartment complex shall extend the same right of accompaniment or visitation to a patient’s domestic partner under ch. 770 as is accorded the spouse of a patient under the policy.

(4) LIMITATION. A nursing home or a community–based residential facility may not convert a separate area of its total area to a residential care apartment complex unless the department first approves the conversion. A nursing home, other than a Wisconsin veterans home operated under the department of veterans affairs under s. 45.50, that intends to convert a separate area of its total area to a residential care apartment complex shall also agree to reduce its licensed nursing home beds by the corresponding number of residential care apartment complex residential units proposed for the conversion.

(5) USE OF NAME PROHIBITED. An entity that does not meet the definition under s. 50.01 (6d) may not designate itself as a “residential care apartment complex” or use the words “residential care apartment complex” to represent or tend to represent the entity as a residential care apartment complex or services provided by the entity as services provided by a residential care apartment complex.
(5m) **PROVISION OF INFORMATION REQUIRED.** When a residential care apartment complex first provides written material regarding the residential care apartment complex to a prospective resident, the residential care apartment complex shall also provide the prospective resident information specified by the department concerning the services of a resource center under s. 46.283, the family care benefit under s. 46.286, and the availability of a functional screening and a financial and cost-sharing screening to determine the prospective resident’s eligibility for the family care benefit under s. 46.286 (1).

(5n) **REQUIRED REFERRAL.** When a residential care apartment complex first provides written material regarding the residential care apartment complex to a prospective resident who is at least 65 years of age or has developmental disability or a physical disability and whose disability or condition is expected to last at least 90 days, the residential care apartment complex shall refer the prospective resident to a resource center under s. 46.283, unless any of the following applies:

(a) For a person for whom a screening for functional eligibility under s. 46.286 (1) (a) has been performed within the previous 6 months, the referral under this subsection need not include performance of an additional functional screening under s. 46.283 (4) (g).

(b) The person is entering the residential care apartment complex only for respite care.

(c) The person is an enrollee of a care management organization.

(d) For a person who seeks admission or is about to be admitted on a private pay basis and who waives the requirement for a financial and cost-sharing screening under s. 46.283 (4) (g), the referral under this subsection may not include performance of a financial and cost-sharing screening under s. 46.283 (4) (g), unless the person is expected to become eligible for medical assistance within 6 months.

(5I) **NOTICE OF LONG-TERM CARE OMBUDSMAN PROGRAM.** A residential care complex shall post in a conspicuous location in the residential care apartment complex a notice, provided by the board on aging and long-term care, of the name, address, and telephone number of the Long-Term Care Ombudsman Program under s. 16.009 (2) (b).

(6) **FUNDING.** Funding for supportive, personal or nursing services that a person who resides in a residential care apartment complex receives, other than private or 3rd-party funding, may be provided only under s. 46.277 (5) (e), except if the provider of the services is a certified medical assistance provider under s. 49.45 or if the funding is provided as a family care benefit under ss. 46.2805 to 46.2895.

(7) **REVOCATION OF CERTIFICATION.** Certification for a residential care apartment complex may be revoked because of the substantial and intentional violation of this section or of rules promulgated by the department under sub. (2) or because of failure to meet the minimum requirements for certification. The operator of the certified residential care apartment complex shall be given written notice of any revocation of certification and the grounds for the revocation. Any residential care apartment complex certification applicant or operator of a certified residential care apartment complex may, if aggrieved by the failure to issue or renew the certification or by revocation of certification, appeal under the procedures specified by the department by rule under sub. (2).

(8) **FORFEITURES.** (a) Whoever violates sub. (5m) or (5n) or rules promulgated under sub. (5m) or (5n) may be required to forfeit not more than $500 for each violation.

(b) The department may directly assess forfeitures provided for under par. (a). If the department determines that a forfeiture should be assessed for a particular violation, it shall send a notice of assessment to the residential care apartment complex. The notice shall specify the amount of the forfeiture assessed, the violation and the statute or rule alleged to have been violated, and shall inform the residential care apartment complex of the right to a hearing under par. (c).

(c) A residential care apartment complex may contest an assessment of a forfeiture by sending, within 10 days after receipt of notice under par. (b), a written request for a hearing under s. 227.44 to the division of hearings and appeals created under s. 15.103 (1). The administrator of the division may designate a hearing examiner to preside over the case and recommend a decision to the administrator under s. 227.46. The decision of the administrator of the division shall be the final administrative decision. The division shall commence the hearing within 30 days after receipt of the request for a hearing and shall issue a final decision within 15 days after the close of the hearing. Proceedings before the division are governed by ch. 227. In any petition for judicial review of a decision by the division, the party, other than the petitioner, who was in the proceeding before the division shall be the named respondent.

(d) All forfeitures shall be paid to the department within 10 days after receipt of notice of assessment or, if the forfeiture is contested under par. (c), within 10 days after receipt of the final decision after exhaustion of administrative review, unless the final decision is appealed and the order is stayed by court order. The department shall remit all forfeitures paid to the secretary of administration for deposit in the school fund.

(e) The attorney general may bring an action in the name of the state to collect any forfeiture imposed under this section if the forfeiture has not been paid following the exhaustion of all administrative and judicial reviews. The only issue to be contested in any such action shall be whether the forfeiture has been paid.

(10) **INSPECTION FEE.** If the department takes enforcement action against a residential care apartment complex for a violation of this section or rules promulgated under sub. (2), and the department subsequently conducts an on-site inspection of the residential care apartment complex to review the residential care apartment complex’s action to correct the violation, the department may impose a $200 inspection fee on the residential care apartment complex.
3. The department or the department of safety and professional services may waive the requirement under subd. 1. or 2. for a community-based residential facility that has a smoke detection or sprinkler system in place that is at least as effective for fire protection as the type of system required under the relevant subdivision.

(b) No facility may install a smoke detection system that fails to receive the approval of the department or of the department of safety and professional services. At least one smoke detector shall be located at each of the following locations:

1. At the head of every open stairway.
2. At the door leading to every enclosed stairway on each floor level.
3. In every room, spaced not more than 30 feet apart and not further than 15 feet from any wall.
4. In each common use room, including living rooms, dining rooms, family rooms, lounges and recreation rooms but not including kitchens.
5. In each sleeping room in which smoking is allowed.

(c) A community-based residential facility does not have to meet the requirements under pars. (a) and (b) prior to May 1, 1985. Beginning on May 1, 1985, the department may waive the requirements under pars. (a) and (b) for a community-based residential facility for a period not to exceed 6 months if the department finds that compliance with those requirements would result in an extreme hardship for the facility.

(2d) ACCOMPANIMENT OR VISITATION. If a community-based residential facility has a policy on who may accompany or visit a patient, the community-based residential facility shall extend the same right of accompaniment or visitation to a patient’s domestic partner under ch. 770 as is accorded the spouse of a patient under the policy.

(3) MANAGER’S PRESENCE IN FACILITY. (a) The person responsible for managing a Class C community-based residential facility, or that person’s agent, shall be present in the facility at any time that residents are in the facility. The person responsible for managing a Class A community-based residential facility, or that person’s agent, shall be present in the facility from 7 p.m. to 7 a.m. when residents are in the facility.

(b) The department may waive a requirement under par. (a) for a community-based residential facility:

1. For a specified period of time, not to exceed one year, if the department finds that compliance with the requirement would result in an unreasonable hardship for the facility and that all of the residents are physically and mentally capable of taking independent action in an emergency; or
2. For a specified period of time if the department finds that the primary purpose of the facility’s program is to promote the independent functioning of its residents with minimum supervision.

(4) FIRE NOTICE. The licensee of a community-based residential facility, or his or her designee, shall notify the department and any county department under s. 46.215 or 46.22 that has residents placed in the facility of any fire that occurs in the facility for which the fire department is contacted. The notice shall be provided within 72 hours after such a fire occurs.

(4m) PROVISION OF INFORMATION REQUIRED. When a community-based residential facility first provides written material regarding the community-based residential facility to a prospective resident, the community-based residential facility shall provide the prospective resident information specified by the department concerning the services of a resource center under s. 46.283, the family care benefit under s. 46.286, and the availability of a functional screening and a financial and cost-sharing screening to determine the prospective resident’s eligibility for the family care benefit under s. 46.286 (1).

(4n) REQUIRED REFERRAL. When a community-based residential facility first provides written information regarding the community-based residential facility to a prospective resident who is at least 65 years of age or has developmental disability or a physical disability and whose disability or condition is expected to last at least 90 days, the community-based residential facility shall refer the individual to a resource center under s. 46.283, unless any of the following applies:

(a) For a person for whom a screening for functional eligibility under s. 46.286 (1) (a) has been performed within the previous 6 months, the referral under this subsection need not include performance of an additional functional screening under s. 46.283 (4) (g).
(b) The person is entering the community-based residential facility only for respite care.
(c) The person is an enrollee of a care management organization.
(d) For a person who seeks admission or is about to be admitted on a private pay basis and who waives the requirement for a financial and cost-sharing screening under s. 46.283 (4) (g), the referral under this subsection may not include performance of a financial and cost-sharing screening under s. 46.283 (4) (g), unless the person is expected to become eligible for medical assistance within 6 months.

(5) REPORTS OF DEATH REQUIRED. (a) In this subsection:

1. “Physical restraint” includes all of the following:
   a. A locked room.
   b. A device or garment that interferes with an individual’s freedom of movement and that the individual is unable to remove easily.
   c. Restraint by a facility staff member of a resident by use of physical force.
   2. “Psychotropic medication” means an antipsychotic, antidepressant, lithium carbonate or a tranquilizer.

(b) No later than 24 hours after the death of a resident of a community-based residential facility, the community-based residential facility shall report the death to the department if one of the following applies:

1. There is reasonable cause to believe that the death was related to the use of physical restraint or a psychotropic medication.
2. There is reasonable cause to believe that the death was a suicide.

(6) POSTING OF NOTICE REQUIRED. The licensee of a community-based residential facility, or his or her designee, shall post in a conspicuous location in the community-based residential facility a notice, provided by the board on aging and long-term care, of the name, address and telephone number of the long-term care ombudsman program under s. 16.009 (2) (b).

(10) EXCEPTIONS TO CARE LIMITATIONS. (a) Notwithstanding the limitations on the type of care that may be required by and provided to residents under s. 50.01 (1g) (intro.), the following care may be provided in a community-based residential facility under the following circumstances:

1. Subject to par. (b), a community-based residential facility may provide more than 3 hours of nursing care per week or care above intermediate level nursing care for not more than 30 days to a resident who does not have a terminal illness but who has a temporary condition that requires the care, if all of the following conditions apply:
   a. The resident is otherwise appropriate for the level of care that is limited in a community-based residential facility under s. 50.01 (1g) (intro.).
   b. The services necessary to treat the resident’s condition are available in the community-based residential facility.
2. Subject to par. (b) and if a community-based residential facility has obtained a waiver from the department or has requested such a waiver from the department and the decision is pending, the community-based residential facility may provide more than 3 hours of nursing care per week or care above intermediate level nursing care for not more than 30 days to a resident who does not have a terminal illness but who has a temporary condition that requires the care, if all of the following conditions apply:
   a. The resident is otherwise appropriate for the level of care that is limited in a community-based residential facility under s. 50.01 (1g) (intro.).
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administer for deposit in the school fund.

227.44 to the division of hearings and appeals created under s. 15.103 (1). The administrator of the division may designate a hearing examiner to preside over the case and recommend a decision after exhaustion of administrative review, unless the final decision is affirmed.

3. A community-based residential facility may provide more than 3 hours of nursing care per week or care above intermediate level nursing care to a resident who has a terminal illness and requires the care, under the following conditions:

a. If the resident’s primary care provider is a licensed hospice or a licensed home health agency.

b. If the resident’s primary care provider is not a licensed hospice or a licensed home health agency, but the community-based residential facility has obtained a waiver of the requirement under sub. 3. a. from the department or has requested such a waiver and the department’s decision is pending.

(b) A community-based residential facility may not have a total of more than 10 percent of the facility’s licensed capacity, whichever is greater, who qualify for care under par. (a) 1. or 2. unless the facility has obtained a waiver from the department of the limitation of this paragraph or has requested such a waiver and the department’s decision is pending.

2. The department may, by rule, increase the amount of the fee under sub. 1.

(b) Fees specified under par. (a) shall be paid to the department by the community-based residential facility before the department may issue a license under s. 50.03 (4) (a) 1. b. A licensed community-based residential facility shall pay the fee under par. (a) by the date established by the department. A newly licensed community-based residential facility shall pay the fee under this subsection no later than 30 days before the opening of the facility.

(c) A community-based residential facility that fails to submit the biennial fee prior to the date established by the department, or a new community-based residential facility subject to this section that fails to submit the biennial fee by 30 days prior to the opening of the new community-based residential facility, shall pay an additional fee of $10 per day for every day after the deadline that the facility does not pay the fee.

3. Exemption. Community-based residential facilities where the total monthly charges for each resident do not exceed the monthly state supplemental payment rate under s. 49.77 (3s) that is in effect at the time the fee under sub. (2) is assessed are exempt from this section.

**50.037 Community-based residential facility licensing fees. (1) Definition.** In this section, “total monthly charges” means the total amount paid per month, including the basic monthly rate plus any additional fees, for care, treatment and services provided to a resident of a community-based residential facility by a community-based residential facility.

(2) **Fees.** (a) 1. Except as provided in subd. 2., the biennial fee for a community-based residential facility is $389, plus a biennial fee of $50.25 per resident, based on the number of residents that the facility is licensed to serve.

(b) Fees specified under par. (a) shall be paid to the department by the community-based residential facility before the department may issue a license under s. 50.03 (4) (a) 1. b. A licensed community-based residential facility shall pay the fee under par. (a) by the date established by the department. A newly licensed community-based residential facility shall pay the fee under this subsection no later than 30 days before the opening of the facility.

(c) A community-based residential facility that fails to submit the biennial fee prior to the date established by the department, or a new community-based residential facility subject to this section that fails to submit the biennial fee by 30 days prior to the opening of the new community-based residential facility, shall pay an additional fee of $10 per day for every day after the deadline that the facility does not pay the fee.

**50.04 Special provisions applying to licensing and regulation of nursing homes.**

(1) **Applicability.** This section applies to nursing homes as defined in s. 50.01 (3).

(1m) **Definitions.** In this section, “class “C” repeat violation” means a class “C” violation by a nursing home under the same statute or rule under which, within the previous 2 years, the department has served the nursing home a notice of violation or a correction order or has made a notation in the report under sub. (3) (b).

(2) **Required personnel.** (a) No nursing home within the state may operate except under the supervision of an administrator licensed under ch. 456 by the nursing home administrators examining board. If the holder of a nursing home license is unable to secure a new administrator because of the departure of an administrator who is not subject to the penalty provided under s. 456.09, the department may appoint a new administrator in the same manner as provided under s. 456.09.

(b) Each nursing home shall employ a charge nurse. The charge nurse shall be either a licensed practical nurse acting under the supervision of a professional nurse or a physician, or shall be a professional nurse. The department shall, by rule, define the duties of a charge nurse.
(c) 1. Except as provided in subd. 2., beginning July 1, 1988, the department shall enforce nursing home minimum staffing requirements based on daily staffing levels.

   2. The department may enforce nursing home minimum staffing requirements based on weekly staffing levels for a nursing home if the secretary determines that the nursing home is unable to comply with nursing home minimum staffing requirements based on daily staffing levels because:

      a. The nursing home minimum staffing requirements based on daily staffing levels violate the terms of a collective bargaining agreement that is in effect on December 8, 1987; or

      b. A shortage of nurses or nurse aides available for employment by the nursing home exists.

(d) Each nursing home, other than nursing homes that primarily serve the developmentally disabled, shall provide at least the following hours of service by registered nurses, licensed practical nurses, or nurse aides and may not use hours of service by a feeding assistant, as defined in s. 146.40 (1) (aw), in fulfilling these requirements:

   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.

(2d) ACCOMPANIMENT OR VISITATION. If a nursing home has a policy on who may accompany or visit a patient, the nursing home shall extend the same right of accommodation or visitation to a patient’s domestic partner under ch. 770 as is accorded the spouse of a patient under the policy.

(2g) PROVISION OF INFORMATION REQUIRED. (a) A nursing home shall, within the time period after inquiry by a prospective resident that is prescribed by the department by rule, inform the prospective resident of the services of a resource center under s. 46.283, the family care benefit under s. 46.286, and the availability of a functional screening and a financial and cost-sharing screening to determine the prospective resident’s eligibility for the family care benefit under s. 46.286 (1).

(b) Failure to comply with this subsection is a class “C” violation under sub. (4) (b) 3.

(2h) REQUIRED REFERRAL. (a) A nursing home shall, within the time period prescribed by the department by rule, refer to a resource center under s. 46.283 a person who is seeking admission, who is at least 65 years of age or has developmental disability or physical disability and whose disability or condition is expected to last at least 90 days, unless any of the following applies:

   1. For a person for whom a screening for functional eligibility under s. 46.286 (1) (a) has been performed within the previous 6 months, the referral under this paragraph need not include performance of an additional functional screening under s. 46.283 (4) (g).

   2. The person is seeking admission to the nursing home only for respite care.

   3. The person is an enrollee of a care management organization.

   4. For a person who seeks admission or is about to be admitted on a private pay basis and who waives the requirement for a financial and cost-sharing screening under s. 46.283 (4) (g), the referral under this subsection may not include performance of a financial and cost-sharing screening under s. 46.283 (4) (g), unless the person is expected to become eligible for medical assistance within 6 months.

   (b) Failure to comply with this subsection is a class “C” violation under sub. (4) (b) 3.
shall promptly serve a notice of violation upon the licensee. Each notice of violation shall be prepared in writing and shall specify the nature of the violation, and the statutory provision or rule alleged to have been violated. The notice shall inform the licensee of the right to a hearing under par. (e). The written notice of a class “A” violation may be written and served by an agent of the department at the time of the inspection.

1g. a. If upon inspection or investigation the department determines that a nursing home is in violation of this subchapter or the rules promulgated under it and the violation is a class “C” violation, the department may serve a correction order upon the licensee. The department may serve a correction order or notice of violation upon the nursing home before the completion of the inspection or investigation. If the correction is made before the completion of the inspection or investigation, the department may make a notation in the report under sub. (3) (b) that shall specify the nature of the violation and the statute or rule alleged to have been violated.

b. If upon inspection or investigation the department determines that a nursing home is in violation of this subchapter or the rules promulgated under it and the violation is a class “C” repeat violation, the department may serve a correction order or notice of violation upon the nursing home. If the nursing home corrects the violation before completion of the inspection or investigation, the department may, as an alternative to serving a correction order or notice of violation, make a notation in the report under sub. (3) (b) that shall specify the nature of the violation and the statute or rule alleged to have been violated.

1m. A correction order shall be prepared in writing and shall specify the nature of the violation, the statutory provision or rule alleged to have been violated and the date by which the violation shall be corrected. The department may grant an extension of the date for correction specified in the correction order. The nursing home shall correct the class “C” violation by the date specified in the correction order or the extended date, if granted.

1r. The department may serve a notice of violation on a nursing home determined to be in violation of this subchapter or the rules promulgated under it for a class “C” violation if either of the following conditions apply:

a. The nursing home fails to make a correction by the date specified in a correction order served under subd. 1g. b. or by an extension of the date, if granted.

b. The violation is a class “C” repeat violation, regardless of whether a correction order has first been served.

2. The department is not required to serve a notice of violation if each of the following conditions exists:

a. The nursing home brings the violation to the department’s attention.

b. The nursing home has made every reasonable effort to prevent and correct the violation, but the violation occurred and remains uncorrected due to circumstances beyond the nursing home’s control, or the nursing home has corrected the violation.

c. The department is not required to serve a notice of a class “C” violation if it finds that the nursing home is in substantial compliance with the specific rule violated.

(am) Dual federal and state violations. 1. Notwithstanding s. 50.01 (3), in this paragraph, “nursing home” does not include a facility serving people with developmental disabilities.

2. If an act or omission constitutes a violation of this subchapter or the rules promulgated under this subchapter, s. 49.498, or requirements under 42 CFR 483 related to the operation of a nursing home, the department may not issue a class “C” violation if it finds that the nursing home is in substantial compliance with the specific rule violated.

(b) Classification of violations. 1. A class “A” violation is a violation of this subchapter or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a nursing home presenting a substantial probability that death or serious mental or physical harm to a resident will result therefrom.

2. A class “B” violation is a violation of this subchapter or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a nursing home directly threatening to the health, safety or welfare of a resident.

3. A class “C” violation is a violation of this subchapter or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a nursing home which does not directly threaten the health, safety or welfare of a resident.

4. Each day of violation constitutes a separate violation. Except as provided in sub. (5) (a) 4., the department shall have the burden of showing that a violation existed on each day for which a forfeiture is assessed. No forfeiture may be assessed for a condition for which the nursing home has received a variance or waiver of a standard.

(c) Correction. 1. The situation, condition or practice constituting a class “A”, “B” or “C” violation or immediate jeopardy shall be abated or eliminated immediately unless a fixed period of time, as determined by the department and specified in the notice of violation, is required for correction. If the class “A” violation or immediate jeopardy is not abated or eliminated within the specified time period, the department shall maintain an action in circuit court for injunction or other process against the licensee, owner, operator, administrator or representative of the facility to restrain and enjoin violation of applicable rules, regulations and statutes.

2. At the time of issuance of a notice of a class “B” or “C” violation, the department shall request a plan of correction which is subject to the department’s approval. The nursing home shall have 10 days after receipt of notice of violation in which to prepare and submit a plan of correction, but the department may extend this period up to 30 days where correction involves substantial capital improvement. The plan shall include a fixed time period within which violations are to be corrected. If the nursing home plan of correction is substantially in compliance, it may be modified upon agreement between the department and the nursing home to achieve full compliance. If it rejects a plan of correction, the department shall send notice of the rejection and the reason for the rejection to the nursing home and impose a plan of correction. The imposed plan of correction may be modified upon agreement between the department and the nursing home.

3. If the violation has been corrected prior to submission and approval of a plan of correction, the nursing home may submit a report of correction in place of a plan of correction. Such report shall be signed by the administrator under oath.

4. Upon a licensee’s petition, the department shall determine whether to grant a licensee’s request for an extended correction time. Such petition must be served on the department prior to expiration of the correction time originally approved. The burden of proof is on the petitioner to show good cause for not being able to comply with the original correction time approved.

5. This paragraph does not apply to notices of violation served under par. (a) 1r.

(d) Suspension of admissions. 1. The department shall suspend new admissions to a nursing home if all of the following apply:

a. In the previous 15 months, the nursing home received written notice of a violation of a state statute or rule or a federal statute or regulation that involved immediate jeopardy to a resident; a class “A” violation; or 3 or more class “B” violations or violations that constituted actual harm not involving immediate jeopardy to a resident.

b. In any 15-month period during the 36 months immediately preceding the period specified in subd. 1. a., the nursing home received written notice of a violation of a state statute or rule or a federal statute or regulation that involved immediate jeopardy.
to a resident; a class “A” violation; or 3 or more class “B” violations or violations that constituted actual harm not involving immediate jeopardy to a resident.

2. A suspension of admissions under subd. 1. shall begin 90 days after a nursing home received its last notice of violation for a violation specified in subd. 1. a. if the department determines that the violation remains uncorrected 90 days after the nursing home received the last notice of the violation. A suspension of admissions under subd. 1. shall remain in effect until the department determines that the nursing home has corrected the violation. Admission of a new resident during the period for which admissions have been suspended constitutes a class “B” violation.

3. In determining whether subd. 1. applies, the department may not consider a notice of violation found to be unjustified after hearing.

4. If the department suspends new admissions to a nursing home under this paragraph, the department shall publish a class 1 notice under ch. 985 in a newspaper likely to give notice in the area where the nursing home is located.

(d) Inspection fee. If the department takes enforcement action against a nursing home, including an intermediate care facility for persons with an intellectual disability, as defined in s. 50.14 (1) (b), for a violation of this subchapter or rules promulgated under it or for a violation of a requirement under 42 USC 1396a and the department subsequently conducts an on-site inspection of the nursing home to review the nursing home’s action to correct the violation, the department may, unless the nursing home is operated by the state, impose a $200 inspection fee on the nursing home.

(e) Hearings. 1. If a nursing home desires to contest any department action under this subsection, it shall send a written request for a hearing under s. 227.44 to the division of hearings and appeals created under s. 15.103 (1) within 60 days of receipt of notice of the contested action. Department action that is subject to a hearing under this subsection includes service of a notice of a violation of this subchapter or rules promulgated under this subchapter, a notation in the report under sub. (3) (b), imposition of a plan of correction, and rejection of a nursing home’s plan of correction, but does not include a correction order. Upon the request of the nursing home, the division shall grant a stay of the hearing under this paragraph until the department assesses a forfeiture, so that its hearing under this paragraph is consolidated with the forfeiture appeal hearing held under sub. (5) (e). All agency action under this subsection arising out of a violation, deficiency, or rejection and imposition of a plan of correction shall be the subject of a single hearing. Unless a stay is granted under this paragraph, the division shall commence the hearing within 30 days of the request for hearing, within 30 days of the department’s acceptance of a nursing home’s plan of correction, or within 30 days of the department’s imposition of a plan of correction, whichever is later. The division shall send notice to the nursing home in conformance with s. 227.44. Issues litigated at the hearing may not be relitigated at subsequent hearings under this paragraph arising out of the same violation or deficiency.

2. The division shall notify the nursing home of its decision to reverse, modify or uphold the contested action within 15 days after the close of the hearing.

3. In any petition for judicial review of a decision by the division under subd. 2., the department, if not the petitioner who was in the proceeding before the division under subd. 1., shall be the named respondent.

(5) FORFEITURES. (a) Amounts. Any operator or owner of a nursing home which is in violation of this subchapter or any rule promulgated thereunder may be subject to the forfeitures specified in this section.

1. A class “A” violation may be subject to a forfeiture of not more than $10,000 for each violation.

2. A class “B” violation may be subject to a forfeiture of not more than $5,000 for each violation.

3. A class “C” violation may be subject to a forfeiture of not more than $500. No forfeiture may be assessed for a class “C” violation unless at least one of the following applies:

a. The department serves the nursing home a notice of violation following the nursing home’s failure to correct a class “C” violation by the date specified in a correction order or an extended date set by the department, if granted.

b. The department serves the nursing home a notice of violation for a class “C” repeat violation.

4. Notwithstanding subs. 1., 2. and 3., if the violation or group of violations results from inadequate staffing, the amount of the forfeiture that the department may assess shall be no less than the difference between the cost of the staff actually employed and the estimated cost of the staff required. The number of staff required shall be determined by the provider contract, court order or the department, by rule, whichever is greatest. The inadequate staff shall be presumed to exist from the date of the notice of violation.

5. a. A nursing home that violates a statute or rule resulting in a class “A” violation and that has received a notice of violation for a class “A” violation within the previous 3-year period involving the same situation shall be subject to a forfeiture 3 times the amount authorized for a class “A” violation.

b. Except as provided in subd. 5. a., a nursing home that violates a statute or rule resulting in a class “A” or class “B” violation and that has received a notice of a class “A” or class “B” violation of the same statute or rule within the previous 3-year period may be subject to a forfeiture 3 times the amount authorized for the most recent class of violation involved.

6. If a licensee fails to correct a violation within the time specified in the notice of violation or approved plan of correction, or within the extended correction time granted under sub. (4) (c) 4., or if a violation continues after a report of correction, the department may assess upon the licensee a separate forfeiture of not more than $10,000 for class “A” violations, and may assess a separate forfeiture of not more than $5,000 for class “B” violations, for each day of continuing violation.

(b) Factors in assessment of forfeitures. In determining whether a forfeiture is to be imposed and in fixing the amount of the forfeiture to be imposed, if any, for a violation, the following factors shall be considered:

1. The gravity of the violation, including the probability that death or serious physical or psychological harm to a resident will result or has resulted; the severity of the actual or potential harm; and the extent to which the provisions of the applicable statutes or rules were violated.

2. “Good faith” exercised by the licensee. Indications of good faith include, but are not limited to, awareness of the applicable statutes and regulation and reasonable diligence in complying with such requirements, prior accomplishments manifesting the licensee’s desire to comply with the requirements, efforts to correct and any other mitigating factors in favor of the licensee.

3. Any previous violations committed by the licensee.

4. The financial benefit to the nursing home of committing or continuing the violation.

(c) Assessment of forfeitures; powers and duties of department. The department may directly assess forfeitures provided for under par. (a). If the department determines that a forfeiture should be assessed for a particular violation or for failure to correct it, the department shall send a notice of assessment of forfeiture to the nursing home. The notice shall specify the amount of
the forfeiture assessed, the violation, and the statute or rule alleged to have been violated and shall inform the licensee of the right to hearing under par. (e). If the department does not issue a notice of forfeiture within 120 days after the date on which a nursing home receives the notice of a violation, the department may not assess a forfeiture for the violation.

(d) Forfeiture period. 1. In the case of a class “B” violation, no forfeiture may be assessed for the violation from the day following the date of discovery until the date of notification. If the department fails to approve or reject a plan of correction within 15 days after its receipt of a complete plan, no forfeiture may be imposed for the period beginning with the 15th day after receipt and extending when notice of approval or rejection is received by the home. If a plan of correction is approved and carried out, no forfeiture may be assessed during the time period specified in the approved plan of correction, commencing on the day the plan of correction is received by the department.

2. In the case of a class “C” violation for which a notice of violation has been served, a forfeiture may be assessed: a. Under par. (a) 3. a., for the period beginning on the date for correction set forth in the correction order or an extended date set by the department, if granted, and ending on the date on which the violation is corrected.

b. Under par. (a) 3. b., for each day of the period during which the violation occurred.

(dm) Forfeiture assessment date. In the case of a class “B” violation, the department may not assess a forfeiture upon a nursing home until:

1. The home fails to submit a plan of correction under sub. (4) (e) 2.; or

2. The department has issued an order imposing an approved plan under sub. (4) (e) 2.; or

3. The time set for the correction of the violation by the home under sub. (4) (e) 2. has expired.

(e) Forfeiture appeal hearing. A nursing home may contest an assessment of a forfeiture by sending, within 60 days after receipt of notice of the assessment of the forfeiture, a written request for hearing under s. 227.44 to the division of hearings and appeals created under s. 15.103 (1). The administrator of the division may designate a hearing examiner to preside over the case and recommend a decision to the administrator under s. 227.46. The decision of the administrator of the division shall be the final administrative decision. The division shall commence the hearing within 30 days of receipt of the request for hearing and shall issue a final decision within 15 days after the close of the hearing. Proceedings before the division are governed by ch. 227. In any petition for judicial review of a decision by the division, the party, other than the petitioner, who was in the proceeding before the division shall be the named respondent. If, after receipt of notice of assessment of a forfeiture, a nursing home that has timely requested a hearing under sub. (4) (e) on the notice of violation under sub. (4) for which the forfeiture was assessed requests a hearing under this paragraph on the assessment of the forfeiture, the hearing on the notice of violation under sub. (4) and the hearing on the assessment of the forfeiture shall be consolidated.

(f) Forfeitures paid within 60 days. All forfeitures shall be paid to the department within 60 days of receipt of notice of assessment of the forfeiture or, if the forfeiture is contested under par. (e), within 60 days of receipt of the final decision after exhaustion of administrative review, unless the final decision is appealed and the order is stayed by court order under s. 50.03 (11). The department shall remit all forfeitures paid to the secretary of administration for deposit in the school fund.

(fm) Forfeiture reduction for timely payment. If a nursing home does not contest a notice of violation under sub. (4) (e) and does not contest an assessment of a forfeiture under par. (e) for a class “A” or class “B” violation and pays the forfeiture to the department within 60 days after receipt of the notice of assessment of the forfeiture, the department shall reduce the amount of the forfeiture by 35 percent.

(fr) Report to the legislature. Annually, the department shall submit a report to the legislature under s. 13.172 (2) that specifies for the previous year the number of class “A” violations, the amount of the forfeiture assessment for each of those violations and, if known, the amount of the forfeiture actually paid and collected with respect to those violations. The report shall also include an explanation for any assessment that was less than $2,500 for the violations specified in the report.

(g) Enforcement by attorney general. The attorney general may bring an action in the name of the state to collect any forfeiture imposed under this section if the forfeiture has not been paid following the exhaustion of all administrative and judicial reviews. The only issue to be contested in any such action shall be whether the forfeiture has been paid.

(6) Conditional license. (a) Power of department. 1. In addition to the right to impose forfeitures under sub. (5), the department may issue a conditional license to any nursing home if the department finds that any of the following is true:

a. A class “A” or class “B” violation, as defined in sub. (4), continues to exist in the nursing home.

b. A federal violation continues to exist that constitutes immediate jeopardy or actual harm not involving immediate jeopardy to a resident.

2. The issuance of a conditional license shall revoke any outstanding license held by the nursing home.

3. The nursing home may seek review of a decision to issue a conditional license as provided in s. 50.03 (5).

(b) Violation correction plan. Prior to the issuance of a conditional license, the department shall establish a written plan of correction. The plan shall specify the violations which prevent full licensure and shall establish a time schedule for correction of the deficiencies. Retention of the license shall be conditional on meeting the requirements of the plan of correction.

(c) Notice. Written notice of the decision to issue a conditional license shall be sent to the facility together with the proposed plan of correction. The notice shall inform the facility of its right to a case conference prior to issuance of the conditional license under par. (d) and of its right to a full hearing under par. (e).

(d) Case conference. If the facility desires to have a case conference it shall, within 4 working days of receipt of the notice under par. (e), send a written request for a case conference to the department. The department shall, within 4 working days from the receipt of the request, hold a case conference in the county in which the facility is located. Following this conference the department may affirm or overrule its previous decision, or modify the terms of the conditional license and plan of correction. The conditional license may be issued after the case conference, or after the time for requesting a case conference has expired, prior to any further hearing.

(e) Hearing. If after the case conference the licensee desires to contest the basis for issuance of a conditional license, or the terms of the license or plan of correction, the licensee shall send a written request for hearing to the department within 4 working days after issuance of the conditional license. The department shall hold the hearing within 30 days of receipt of such notice and shall immediately notify the licensee of the date and location of the hearing.

(f) Term; inspection. A conditional license shall be issued for a period specified by the department, but in no event for more than one year. The department shall periodically inspect any nursing home operating under a conditional license. If the department finds substantial failure by the nursing home to follow the plan of correction, the conditional license may be revoked as provided under s. 50.03 (5). The licensee is entitled to a hearing on the revocation under s. 50.03 (5), but the department may rely on facts found in a hearing under par. (e) as grounds for revocation.
(g) Expiration. If the department determines that a conditional license shall expire without renewal or replacement of the conditional license by a regular license, the department shall so notify the licensee at least 30 days prior to expiration of the license. The notice shall comply with notice requirements under s. 50.03 (5). The licensee is entitled to a hearing under s. 50.03 (5) prior to expiration of the license.

(7) Violations. If an act forms the basis for a violation of this section and s. 49.498, the department or the attorney general may impose sanctions in conformity with this section or under s. 49.498, but not both.

(8) Protection and cost effectiveness programs; quality assurance. (a) The department may distribute moneys from the appropriation account under s. 20.435 (6) (g) for innovative projects designed to protect the property and the health, safety, and welfare of residents in nursing homes and to improve the efficiency and cost effectiveness of the operation of facilities so as to improve the quality of life, care, and treatment of residents.

(b) The department shall establish and maintain a quality assurance and improvement committee to review proposals and award moneys for innovative projects, as described in par. (a), that are approved by the committee. The department shall promulgate rules to guide the actions of the quality assurance and improvement committee.


A state nursing home is subject to the forfeiture provisions of ch. 50. Wisconsin Veterans Home v. Division of Nursing Home Forfeiture Appeals, 104 Wis. 2d 106, 310 N.W.2d 646 (Ct. App. 1981).

A county–operated nursing home was subject to forfeitures under sub. (5). Lake–land Home v. Nursing Home Appeals Division, 118 Wis. 2d 636, 348 N.W.2d 523 (1984).

The sub. (5) (e) 30–day limit for commencing a hearing is directory, not mandatory. St. Michael’s Church v. DOI, 137 Wis. 2d 326, 404 N.W.2d 114 (Ct. App. 1987).

The requirement under sub. (2r) that an individual may not be admitted to an intermediate care facility unless the county department of the individual’s county of residence has recommended admission is a residency requirement, which in the case of a private facility is an unconstitutional restriction on travel. Bethesda Lutheran Homes and Services v. Leece, 122 F.3d 443 (1997).

50.045 Therapeutic alternate drug selections in nursing homes. (1) A nursing home that does not maintain a quality assessment and assurance committee under s. 49.498 (2) (a) 2. may maintain a committee that consists of the director of nursing services, a physician, as defined in s. 448.01 (5), a pharmacist, as defined in s. 450.01 (15), and at least 2 other members of the nursing home staff.

(2) A committee with the members specified under sub. (1) may establish written guidelines or procedures for making therapeutic alternate drug selections for the purposes of s. 450.01 (16) (h).

History: 2013 a. 294.

50.05 Placement of monitor and appointment of receiver. (1) Definitions. In this section:

(a) “Affiliate” means:

1. With respect to a partnership, each partner thereof.

2. With respect to a corporation, each officer, director, principal stockholder and controlling person thereof.

3. With respect to a natural person: any person related in the first degree of kinship to that person; each partnership and each partner thereof of which that person or any affiliate of that person is a partner; each limited liability company and each member or manager thereof of which that person or any affiliate of that person is a member; and each corporation in which that person or any affiliate of that person is an officer, director, principal stockholder or controlling person.

(b) “Controlling person” means any person who has the ability, directly or indirectly, to control the management or policies of the facility.

(c) “Emergency” means a situation, physical condition or one or more practices, methods or operations which presents imminent danger of death or serious physical or mental harm to residents of the facility.

(d) “Facility” means a nursing home or community–based residential facility.

(dmm) “Nursing facility” has the meaning given in s. 49.498 (1) (i).

(e) “Operator” means any person licensed or required to be licensed under this subchapter as the operator of a facility.

(f) “Principal stockholder” of a corporation means any person who, directly or indirectly, beneficially owns, holds or has the power to vote, 10 percent or more of any class of securities issued by the corporation.

(2) Conditions for placement of a monitor or appointment of a receiver. The department may place a monitor in a facility and the secretary, as specified in sub. (4), may petition for appointment of a receiver for a facility when any of the following conditions exist:

(a) The facility is operating without a license.

(b) The department has suspended or revoked the existing license of the facility.

(c) The department has initiated revocation procedures under s. 50.03 (5) and has determined that the lives, health, safety, or welfare of the residents cannot be adequately assured pending a full hearing on license revocation.

(d) The facility is closing or intends to close and adequate arrangements for relocation of residents have not been made at least 30 days prior to closure.

(e) The department determines that an emergency exists or that placement of a monitor or appointment of a receiver is necessary to protect the health, safety or welfare of the residents.

(f) The facility is a nursing facility that is in violation of s. 49.498, a rule promulgated under s. 49.498, or a requirement under 42 CFR 483 related to the operation of a nursing facility, meets the criteria established by rule under s. 49.498 (14) (c) for placement of a monitor or appointment of a receiver, and there is a need for placement of a monitor or appointment of a receiver during the period that any of the following applies:

1. There is an orderly closure of the nursing facility.

2. The nursing facility institutes improvements in order to bring the nursing facility into compliance with the requirements of s. 49.498, a rule promulgated under s. 49.498, or a requirement under 42 CFR 483 related to the operation of a nursing facility.

(3) Monitor. In any situation described in sub. (2), the department may place a person to act as monitor in the facility. The monitor shall observe operation of the facility, assist the facility in complying with state regulations, and shall submit a written report periodically to the department on the operation of the facility. The department may require payment by the operator or controlling person of the facility for the costs of placement of a person to act as monitor in the facility.

(4) Appointment of receiver. Only the secretary, represented by the department of justice, may apply for a court order appointing the secretary or the secretary’s designee receiver of the facility. The secretary, as represented, may apply by verified petition to the circuit court for Dane County for the order. The court shall hear a hearing on the petition within 5 days of the filing of the petition. The petition and notice of the hearing shall be served on the operator, administrator or designated agent of the facility as provided under ch. 801 or shall be posted in a conspicuous place in the facility not later than 3 days before the time specified for the hearing, unless a different period is fixed by order of the court. Notwithstanding ss. 803.01 to 803.09 and 844.18, the only per-
sons who may appear as a party at a hearing under this subsection or sub. (5) are the secretary or the secretary’s designee and the operator of the facility. The court shall appoint a receiver for a specified time period requested by the secretary up to 120 days, if it finds that any ground exists which would authorize the appointment of a receiver under sub. (2) and that appointment of a receiver will contribute to the continuity of care or the orderly and safe transfer of residents in the facility. The court may extend the period of receivership in 30-day increments only on the petition of the department and if the court finds that the department has been unable to transfer all of the residents to another suitable location or the department has determined that it is necessary for the receivership to be extended for the continued health, safety and welfare of the residents. Notwithstanding s. 808.03 (1), any order issued at the hearing on the petition for receivership under this subsection or sub. (5) or at a subsequent hearing concerning matters arising under the receivership or concerning termination of the receivership under sub. (14) may be appealed as a matter of right.

(5) EMERGENCY PROCEDURE. If it appears from the petition filed under sub. (4), or from an affidavit or affidavits filed with the petition, or from testimony of witnesses under oath when the court determines that this is necessary, that there is probable cause to believe that an emergency exists in the facility, the court shall immediately issue the requested order for appointment of a receiver, ex parte and without further hearing. An appearance by the secretary or the secretary’s designee to obtain the order is not a hearing of any preliminary contested matter for the purposes of s. 801.58 (1). Notice of the petition and order shall be served on the operator, administrator, or designated agent of the facility as provided under ch. 801 or shall be posted in a conspicuous place in the facility within 24 hours after issuance of the order and a hearing on the petition shall be held within 3 days after notice is served or posted unless the operator consents to a later date. After the hearing, the court may terminate, continue or modify the temporary order.

(6) OBJECTIVE. The receiver shall with all reasonable speed, but in any event by the date receivership ends under sub. (4), provide for the orderly transfer of all residents in the facility to other suitable facilities or make other provisions for their continued health, safety and welfare.

(7) POWERS AND DUTIES OF RECEIVER. A receiver appointed under this chapter:

(a) May exercise those powers and shall perform those duties set out by the court.

(b) Shall operate the facility in such a manner as to assure safety and adequate health care for the residents.

(c) Shall have the same rights to possession of the building in which the facility is located and of all goods and fixtures in the building at the time the petition for receivership is filed as the operator would have had if the receiver had not been appointed. The receiver shall take such action as is reasonably necessary to protect or conserve the tangible assets or property of which the receiver takes possession, or the proceeds of any transfer thereof, and may use them only in the performance of the powers and duties set forth in this section and by order of the court.

(d) May use the building, fixtures, furnishings, and any accompanying consumable goods in the provision of care and services to residents and to any other persons receiving services from the facility at the time the petition for receivership was filed. The receiver shall collect payments for all goods and services provided to residents or others during the period of the receivership, at the same rate of payment as was charged by the operators at the time the petition for receivership was filed, unless a different rate is set by the court.

(e) May correct or eliminate any deficiency in the structure or furnishings of the facility which presents an immediate or serious danger to the health or safety of residents while they remain in the facility, provided the total cost of correction does not exceed $3,000. The court may order expenditures for this purpose in excess of $3,000 only on application from the receiver.

(f) May let contracts and hire agents and employees to carry out the powers and duties created under this section. Competitive bidding requirements under s. 16.75 do not apply to contracts for services or materials let by the receiver.

(g) Except as specified in sub. (9), shall honor all leases, mortgages and secured transactions governing the building in which the facility is located and all goods and fixtures in the building of which the receiver has taken possession, but only to the extent of payments which, in the case of a rental agreement, are for the use of the property during the period of the receivership, or which, in the case of a purchase agreement, come due during the period of the receivership.

(h) Shall have full power to direct and manage and to discharge employees of the facility, subject to any contract rights they may have. The receiver shall pay employees at the same rate of compensation, including benefits, that the employees would have received from the operator, except that the receiver shall compensate employees for time actually worked during the period of receivership and may reimburse for vacations or periods of sick leave. The receiver may grant salary increases and fringe benefits to employees of a nursing home, in accord with the facility payment formula under s. 49.45 (6m). Receivership does not relieve the operator of any obligation to employees not carried out by the receiver.

(i) Shall, if any resident is transferred or discharged, provide for:

1. Transportation of the resident and the resident’s belongings and medical records to the place to which the resident is being transferred or discharged.

2. Aid in location of an alternative placement and in discharge planning.

3. If the patient is being transferred, preparation for transfer to mitigate transfer trauma.

(j) Shall, if any resident is to be transferred, permit participation by the resident or the resident’s guardian in the selection of the resident’s alternative placement.

(k) Shall, unless emergency transfer is necessary, prepare a resident under paras. (i) 3. and (j) by explaining alternative placements and by providing orientation to the placement chosen by the resident or the resident’s guardian.

(L) Shall be entitled to and shall take possession of all property or assets of residents which are in the possession of an owner, operator or controlling person of the facility. The receiver shall preserve all property, assets and records of residents of which the receiver takes possession and shall provide for the prompt transfer of the property, assets and records to the alternative placement of any transferred resident.

(m) May restrict admissions to the facility.

(8) PAYMENT TO RECEIVER. (a) A person who is served with notice of an order of the court appointing a receiver and of the receiver’s name and address shall be liable to pay the receiver for any goods or services provided by the receiver after the date of the order if the person would have been liable for the goods or services supplied by the operator. The receiver shall give a receipt for each payment and shall keep a copy of each receipt on file. The receiver shall deposit amounts received in a special account and shall use this account for all disbursements.

(b) The receiver may bring an action to enforce the liability created by par. (a). Proof of payment to the receiver is as effective in favor of the person making the payment as payment of the amount to the person who would, but for this subsection, have been entitled to receive the sum so paid.

(c) A resident may not be discharged, nor may any contract or rights be forfeited or impaired, nor may forfeiture or liability be
increased, by reason of an omission to pay an owner, operator or other person a sum paid to the receiver.

(9) AVOIDANCE OF PREEXISTING LEASES, MORTGAGES AND CONTRACTS. (a) A receiver may not be required to honor any lease, mortgage, secured transaction or other wholly or partially executory contract entered into by the owners or operators of the facility if any of the following is applicable:

1. The person seeking payment under the lease, mortgage, secured transaction or other wholly or partially executory contract was an operator or controlling person of the facility or was an affiliate of an operator or controlling person at the time the lease, mortgage, secured transaction or other wholly or partially executory contract was made.

2. The rental, price or rate of interest required to be paid under the lease, mortgage, secured transaction or other wholly or partially executory contract was in excess of a reasonable rental, price or rate of interest at the time the contract was entered into.

3. Payment under the lease, mortgage, secured transaction or other wholly or partially executory contract has been modified by the parties’ subsequent oral or written agreement or restrictive waiver.

(b) If the receiver is in possession of real estate or goods subject to a lease, mortgage or security interest which the receiver is permitted to avoid under par. (a), and if the real estate or goods are necessary for the continued operation of the facility under this section, the receiver may apply to the court to set a reasonable rental, price or rate of interest to be paid by the receiver during the duration of the receivership. The court shall hold a hearing on the application within 15 days. The receiver shall send notice of the application to any known owners of the property involved at least 10 days prior to the hearing. Payment by the receiver of the amount determined by the court to be reasonable is a defense to any action against the receiver for payment or for possession of the goods or real estate subject to the lease or mortgage involved by any person who received such notice, but the payment does not relieve the owner or operator of the facility of any liability for the difference between the amount paid by the receiver and the amount due under the original lease or mortgage involved.

(c) During the period of appointment of a receiver, there may be no foreclosure of a mortgage entered into by the owner or operator of the facility or eviction of facility residents if the foreclosure or eviction serves to defeat the purpose of the appointment.

(9m) IMPELING RECEIVERSHIP PROHIBITED; AUTOMATIC STAY. No person may impede the operation of a receivership established under this section. After the appointment of a receiver, any action that interferes with the functioning of the facility, including cancellation of an insurance policy executed on behalf of the facility, repossession of equipment used in the facility or termination of utility services or other services or goods that are necessary to protect the health, safety or welfare of the nursing home residents, is automatically stayed for a period of not more than 60 days.

(10) CONTINGENCY FUND. If funds collected under subs. (3), (7) and (8) are insufficient to meet the expenses of performing the powers and duties conferred on the receiver by this section, or if there are insufficient funds on hand to meet those expenses, the department may draw from the supplemental fund created under s. 49.498(2), (3) (g) to pay the expenses associated with the placement of a monitor, if any, in a nursing home and the receivership of a nursing home. Operating funds collected under this section and not applied to the expenses of the placement of a monitor, if any, and the receivership, except for the amount of a security, if any is required under sub. (14m), shall be used to reimburse the fund for advances made under this section.

(11) COMPENSATION OF MONITOR OR RECEIVER. The court shall set the compensation of a person placed as a monitor, if any, and of the receiver, which will be considered necessary expenses of a receivership.

(12) LIABILITY OF RECEIVER, STATUS AS PUBLIC EMPLOYEE. (a) In any action or special proceeding brought against a receiver in the receiver’s official capacity for acts committed while carrying out the powers and duties created under this section, the receiver shall be considered a public employee for purposes of s. 895.46.

(b) A receiver may be held liable in a personal capacity only for the receiver’s own gross negligence, intentional acts or breach of fiduciary duty.

(c) A receiver may not be required to post any bond.

(13) LICENSING OF FACILITY UNDER RECEIVERSHIP. Other provisions of this chapter notwithstanding, the department may issue a license to a facility placed in receivership under this section. The duration of a license issued under this section is limited to the duration of the receivership.

(14) TERMINATION OF RECEIVERSHIP. (a) Except as provided under par. (b), the court may not terminate a receivership for any reason other than as specified under subs. 1. to 3. and shall, after the department determines and notifies the court that the facility is able to ensure continued compliance with federal and state laws, terminate the receivership:

1. If the time period specified in the order appointing the receiver elapses and the department has not petitioned for an extension;

2. If the department grants the facility a new license, whether the structure of the facility, the right to operate the facility, or the land on which it is located is under the same or different ownership;

3. If all of the residents in the facility have been provided alternative modes of health care, either in another facility or otherwise.

(b) The court may terminate a receivership of a nursing facility imposed because of a violation of s. 49.498 or a rule promulgated under s. 49.498 if the department submits testimony to the satisfaction of the court that the nursing facility has the management capability to ensure continued compliance with the requirements of s. 49.498 or a rule promulgated under s. 49.498.

(14m) BOND UPON TERMINATION: REAPPOINTMENT. If the court terminates a receivership under sub. (14) and the department grants a license for the facility to the same applicant under which the facility was licensed immediately prior to appointment of a receiver under sub. (4) or (5), the court may require that person to post a bond for a period of not less than 120 days in an amount fixed by the court as security for maintaining compliance with this subchapter and the rules promulgated under this subchapter. If the court, after notice to the parties in the receivership proceeding and after a hearing, finds that the standards for appointment under sub. (4) are met, the court may reappoint the receiver. If the court reappoints the receiver, the receiver may use the security, if any has been required under this subsection, in addition to funds under subs. (7), (8) and (10), for purposes of payment of the placement of a monitor, if any, and for the receivership.

(15) ACCOUNTING, Lien FOR EXPENSES. (a) Within 30 days after termination, the receiver shall give the court a complete accounting of all property of which the receiver has taken possession, of all funds collected under this section and of the expenses of the monitor, if any is placed in a nursing home, and the receivership.

(b) If the operating funds collected by the receiver under subs. (7) and (8) exceed the reasonable expenses of the placement of a monitor in a nursing home, if any, and of the receivership, the court shall order payment of the surplus to the operator or controlling person, after reimbursement of funds drawn from the contingency fund under sub. (10). If the operating funds are insufficient to cover the reasonable expenses of the placement of a monitor in a nursing home, if any, and of the receivership, the operator or controlling person shall be liable for the deficiency. The operator or controlling person may apply to the court to determine the reasonableness of any expense of the placement of a monitor in a nursing home, if any, and of the receivership. The operator or controlling person shall not be responsible for expenses in excess of what the court finds to be reasonable. Payment recovered from the operator
or controlling person shall be used to reimburse the contingency fund for amounts drawn by the receiver under sub. (10).

(c) The department has a lien for any deficiency under par. (b) upon any beneficial interest, direct or indirect, of any operator or controlling person in the following property:

1. The building in which the facility is located.
2. The land on which the facility is located.
3. Any fixtures, equipment or goods used in the operation of the facility.
4. The proceeds from any conveyance of property described in subd. 1., 2. or 3., made by the operator or controlling person within one year prior to the filing of the petition for receivership.
5. Any other property or assets of the operator or controlling person if no property or proceeds exist under subds. 1. to 4.

(d) The lien provided by this subsection is prior to any lien or other interest which originates subsequent to the filing of a petition for receivership under this section, except for a construction or mechanic’s lien arising out of work performed with the express consent of the receiver or a lien under s. 292.31 (8) (i) or 292.81.

(e) The clerk of circuit court for the county in which the facility is located shall record the filing of the petition for receivership in the judgment and lien docket kept under s. 779.07 opposite the names of the operators and controlling persons named in the petition.

(f) The receiver shall, within 60 days after termination of the receivership, file a notice of any lien created under this subsection. No action on a lien created under this subsection may be brought more than 2 years after the date of filing. If the lien is on real property, the notice shall be filed with the clerk of circuit court of the county in which the facility is located and entered on the judgment and lien docket kept under s. 779.07. If the lien is on personal property, notice of the lien shall be filed in the same manner, form, and place as financing statements are filed under subch. V of ch. 409 regarding debtors who are located in this state. The department of financial institutions shall file the notice of the lien in the same file as financing statements are filed under subch. V of ch. 409. The notice shall specify the name of the person against whom the lien is claimed, the name of the receiver, the dates of the petition for receivership and the termination of receivership, a description of the property involved and the amount claimed. No lien shall exist under this section against any person, on any property, or for any amount not specified in the notice filed under this paragraph. To the extent applicable, ch. 846 controls the foreclosure of liens under this subsection that attach to real property.

(16) OBLIGATIONS OF OWNERS. Nothing in this section shall be deemed to relieve any owner, operator or controlling person of a facility placed in receivership of any civil or criminal liability incurred, or any duty imposed by law, by reason of acts or omissions of the owner, operator or controlling person prior to the appointment of a receiver under this section, nor shall anything contained in this section be construed to suspend during the receivership any obligation of the owner, operator or controlling person for payment of taxes or other operating and maintenance expenses of the facility nor of the owner, operator or controlling person or any other person for the payment of mortgages or liens. No owner may be held professionally liable for acts or omissions of the receiver or the receiver’s employees during the term of the receivership.

History: 1977 c. 112; 1979 c. 32 s. 92 (g); 1979 c. 34; 1981 c. 121; 1983 a. 27 s. 2202 (20); 1985 a. 29 s. 3200 (23) (b), (c); 1987 a. 27; 1989 a. 31; 1993 a. 112, 453; 1995 a. 27, 224, 227; 1997 a. 27, 35; 1999 a. 83; 2001 a. 10; 2011 a. 70.

50.053 Case conference. The department may hold a case conference with the parties to any contested action under this subchapter to resolve any or all issues prior to formal hearing. Unless any party to the contested case objects, the department may delay the commencement of the formal hearing in order to hold the case conference.

History: 1977 c. 170; 1999 a. 103.
defined in s. 455.01 (4), who personally examine the individual and sign a statement specifying that the individual is incapacitated. Mere old age, eccentricity or physical disability, either singly or together, are insufficient to make a finding that an individual is incapacitated. Neither of the individuals who make a finding that an individual is incapacitated may be a relative, as defined in s. 242.01 (11), of the individual or have knowledge that he or she is entitled to or has a claim on any portion of the individual’s estate. A copy of the statement shall be included in the individual’s records in the facility to which he or she is admitted.

(5) (a) Except as provided in par. (b), an individual who consents to an admission under this section may not authorize expenditures related to health care to the same extent as a guardian of the person may authorize expenditures related to health care to the same extent as a guardian of the estate may, until the earliest of the following:

1. Sixty days after the admission to the facility of the incapacitated individual.

2. Discharge of the incapacitated individual from the facility.

3. Appointment of a guardian for the incapacitated individual.

(b) An individual who consents to an admission under this section may not authorize expenditures related to health care if the incapacitated individual has an agent under a durable power of attorney, as defined in s. 244.02 (3), who may authorize expenditures related to health care.

(6) If the incapacitated individual is in the facility after 60 days after admission and a guardian has not been appointed, the authority of the person who consented to the admission to make decisions and, if sub. (5) (a) applies, to authorize expenditures is extended for 30 days for the purpose of allowing the facility to initiate discharge planning for the incapacitated individual.

(7) An individual who consents to an admission under this section may request a functional screening and a financial and cost-sharing screening to determine eligibility for the family care benefit under s. 46.286 (1). If admission is sought on behalf of the incapacitated individual or if the incapacitated individual is about to be admitted on a private pay basis, the individual who consents to the admission may waive the requirement for a financial and cost-sharing screening under s. 46.283 (4) (g), unless the incapacitated individual is expected to become eligible for medical assistance within 6 months.


50.065 Criminal history and patient abuse record search. (1) In this section:

(a) 1. “Caregiver” means any of the following:

a. A person who is, or is expected to be, an employee or contractor of an entity, who is or is expected to be under the control of an entity, as defined by the department by rule, and who has, or is expected to have, regular, direct contact with clients of the entity.

b. A person who has, or is seeking, a license, certification, registration, or certificate of approval issued or granted by the department to operate an entity.

c. A person who is, or is expected to be, an employee of the board on aging and long-term care and who has, or is expected to have, regular, direct contact with clients.

2. “Caregiver” does not include a person who is certified as an emergency medical services practitioner under s. 256.15 if the person is employed, or seeking employment, as an emergency medical services practitioner and does not include a person who is certified as an emergency medical responder under s. 256.15 if the person is employed, or seeking employment, as an emergency medical responder.

(am) “Certificate of approval” means a certificate of approval issued under s. 50.35.

(b) “Client” means a person who receives direct care or treatment services from an entity.

(bm) “Contractor” means, with respect to an entity, a person, or that person’s agent, who provides services to the entity under an express or implied contract or subcontract, including a person who has staff privileges at the entity.

(br) “Direct contact” means face-to-face physical proximity to a client that affords the opportunity to commit abuse or neglect of a client or to misappropriate the property of a client.

(cn) “Client” means a person who receives direct care or treatment services from an entity.

(c) “Entity” means a facility, organization or service that is licensed or certified by or registered with the department to provide direct care or treatment services to clients; or an agency that employs or contracts with an individual to provide personal care services. “Entity” includes a hospital, a home health agency licensed under s. 50.49, a temporary employment agency that provides caregivers to another entity, and the board on aging and long-term care. “Entity” does not include any of the following:

1. Licensed or certified child care under ch. 48.

2. Kinship care under s. 48.57 (3m) or long-term kinship care under s. 48.57 (3n).

3. A person certified as a medical assistance provider, as defined in s. 49.43 (10), who is not otherwise approved under s. 50.065 (1) (cm), licensed or certified by or registered with the department.

4. An entity, as defined in s. 48.685 (1) (b).

5. A public health dispensary established under s. 252.10.

6. A public health dispensary established under s. 252.10.

(cn) “Hospital” means a facility approved as a hospital under s. 50.35.

(d) “Nonclient resident” means a person who resides, or is expected to reside, at an entity, who is not a client of the entity and who has, or is expected to have, regular, direct contact with clients of the entity.

(e) “Personal care services” means any of the following:

1. Assistance with any of the following activities of daily living:


b. Food purchasing.

c. Changing or laundering of a client’s linens or clothing.

d. Routine care of vision or hearing aids.

e. Light cleaning in areas of the residence that are used during provision of services under subd. 1. or under subd. 2. a. to d.

(dm) “Reservation” means land in this state within the boundaries of a reservation of a tribe or within the bureau of Indian affairs service area for the Ho-Chunk Nation.

(c) “Serious crime” means a violation of s. 940.19 (3), 1999 stats., or a violation of s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19 (2), (4), (5) or (6), 940.22 (2) or (3), 940.225 (1), (2) or (3), 940.285 (2), 940.29, 940.295, 940.02 (1), 940.025 or 940.03 (2) (a) or (5) (a), (b), 3., or a violation of the law of any other state or United States jurisdiction that would be a violation of s. 940.19 (3), 1999 stats., or a violation of s. 940.01, 940.02, 940.03, 940.05, 940.12, 940.19 (2), (4), (5) or (6), 940.22 (2) or (3), 940.225 (1), (2) or (3), 940.285 (2), 940.29, 940.295, 940.02 (1), 940.025 or 940.03 (2) (a) or (5) (a) 1., 2., or 3., or if committed in this state.

2. For the purposes of an entity that serves persons under the age of 18, “serious crime” includes a violation of s. 940.02 (2), 940.03 (2) (b) or (c) or (5) (a) 4., 940.05, 940.051, 940.055, 940.06, 940.07, 940.08, 940.085, 940.11 (2) a. or (am), 940.12, 940.13, 940.21 (2), 940.215, 940.30, or 940.53 or a violation of the law of any other state or United States jurisdiction that would be a violation of s. 940.02 (2), 940.03 (2) (b) or (c) or (5) (a) 4.,

2017–18 Wisconsin Statutes updated through 2019 Wis. Act 184 and through all Supreme Court and Controlled Substances Board Orders filed before and in effect on March 28, 2020. Published and certified under s. 35.18. Changes effective after March 28, 2020, are designated by NOTES. (Published 3–28–20)
948.05, 948.051, 948.055, 948.06, 948.07, 948.08, 948.085, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21 (2), 948.30, or 948.53 if committed in this state.

(g) “Tribe” means a federally recognized American Indian tribe or band in this state.

(2) (am) The department shall obtain all of the following with respect to a person specified under sub. (1) (ag) 1. b. and a person who is a nonresident client or prospective nonclient resident of an entity:

1. A criminal history search from the records maintained by the department of justice.

2. Information that is contained in the registry under s. 146.40 (4g) regarding any findings against the person.

3. Information maintained by the department of safety and professional services regarding the status of the person’s credentials, if applicable.

4. Information maintained by the department regarding any final determination under s. 48.981 (3) (c) 5m. or, if a contested case hearing is held on such a determination, any final decision under s. 48.981 (3) (c) 5p. that the person has been abstracted or neglected a child.

5. Information maintained by the department under this section regarding any denial to the person of a license, certification, certificate of approval or registration of a continuation of a license, certification, certificate of approval or registration to operate an entity for a reason specified in sub. (4m) (a) 1. to 5. and regarding any denial to the person of employment at, a contract with or permission to reside at an entity for a reason specified in sub. (4m) (b) 1. to 5. If the information obtained under this subdivision indicates that the person has been denied a license, certification, certificate of approval or registration, a contract, employment or permission to reside as described in this subdivision, the department need not obtain the information specified in subds. 1. to 4.

(b) Every entity shall obtain all of the following with respect to a caregiver of the entity:

1. A criminal history search from the records maintained by the department of justice.

2. Information that is contained in the registry under s. 146.40 (4g) regarding any findings against the person.

3. Information maintained by the department of safety and professional services regarding the status of the person’s credentials, if applicable.

4. Information maintained by the department regarding any final determination under s. 48.981 (3) (c) 5m. or, if a contested case hearing is held on such a determination, any final decision under s. 48.981 (3) (c) 5p. that the person has been abstracted or neglected a child.

5. Information maintained by the department under this section regarding any denial to the person of a license, certification, certificate of approval or registration of a continuation of a license, certification, certificate of approval or registration to operate an entity for a reason specified in sub. (4m) (a) 1. to 5. and regarding any denial to the person of employment at, a contract with or permission to reside at an entity for a reason specified in sub. (4m) (b) 1. to 5. If the information obtained under this subdivision indicates that the person has been denied a license, certification, certificate of approval or registration, a contract, employment or permission to reside as described in this subdivision, the department need not obtain the information specified in subds. 1. to 4.

(bb) If information obtained under par. (am) or (b) indicates a charge of a serious crime, but does not completely and clearly indicate the final disposition of the charge, the department or entity shall make every reasonable effort to contact the clerk of courts to determine the final disposition of the charge. If a background information form under sub. (6) (a) or (am), or any disclosure made pursuant to a disclosure policy described under sub. (6) (am), indicates a charge or conviction of a serious crime, but information obtained under par. (am) or (b) does not indicate such a charge or conviction, the department or entity shall make every reasonable effort to contact the clerk of courts to obtain a copy of the criminal complaint and the final disposition of the complaint. If information obtained under par. (am) or (b), a background information form under sub. (6) (a) or (am), any disclosure made pursuant to a disclosure policy described under sub. (6) (am), or any other information indicates a conviction of a violation of s. 48.981 (1), 940.19, 940.20, 941.30, 942.08, 947.013 obtained not more than 5 years before the date on which that information was obtained, the department or entity shall make every reasonable effort to contact the clerk of courts to obtain a copy of the criminal complaint and judgment of conviction relating to that violation.

(bd) Notwithstanding paras. (am) and (b) 1., the department is not required to obtain the information specified in par. (am) 1. to 5. and an entity is not required to obtain the information specified in par. (b) 1. to 5. with respect to a person under 18 years of age whose background information form under sub. (6) (am), or with respect to the person’s lack or response or lack of response to a disclosure policy described under sub. (6) (am), indicates that the person is not ineligible to be employed, contracted with or permitted to reside at an entity for a reason specified in sub. (4m) (b) 1. to 5. and with respect to whom the department or entity otherwise has no reason to believe that the person is ineligible to be employed, contracted with or permitted to reside at an entity for any of those reasons. This paragraph does not preclude the department from obtaining, at its discretion, the information specified in par. (am) 1. to 5. with respect to a person described in this paragraph who is a nonresident resident or a prospective nonresident resident of an entity.

(bg) If an entity hires or contracts with a caregiver for whom, within the last 4 years, the information required under par. (b) 1. to 3. and 5. has already been obtained by another entity, the entity may obtain that information from that other entity, which, notwithstanding par. (br), shall provide the information, if possible, to the requesting entity. If an entity cannot obtain the information required under par. (b) 1. to 3. and 5. from another entity or if an entity has reasonable grounds to believe that any information obtained from another entity is no longer accurate, the entity shall obtain that information from the sources specified in par. (b) 1. to 3. and 5.

(bm) If the person who is the subject of the search under par. (am) or (b) is not a resident of this state, or if at any time within the 3 years preceding the date of the search the person has not been a resident of this state, or if the department or entity determines that the person’s employment, licensing or state court records provide a reasonable basis for further investigation, the department or entity shall make a good faith effort to obtain from any state or other United States jurisdiction in which the person is a resident or was a resident within the 3 years preceding the date of the search information that is equivalent to the information specified in par. (am) 1. or (b) 1. The department or entity may require the person to be fingerprinted on 2 fingerprint cards, each bearing a complete set of the person’s fingerprints. The department or entity may provide for the submission of the fingerprint cards to the federal bureau of investigation for the purposes of verifying the identity of the person fingerprinted and obtaining records of his or her criminal arrests and convictions.

(br) 1. Except as provided in subd. 2, an entity that receives information regarding the arrest or conviction of a caregiver from the federal bureau of investigation in connection with a criminal history search under this section may use the information only to determine whether the caregiver’s arrest or conviction record disqualifies him or her from serving as a caregiver. An entity is immune from civil liability to a caregiver for using arrest or conviction information provided by the federal bureau of investigation.
tion to make an employment determination regarding the caregiver.

2. Subdivision 1. does not apply to use by an entity of arrest or conviction information that the entity requests from the federal bureau of investigation after September 30, 2007.

(d) Every entity shall maintain, or shall contract with another person to maintain, the most recent background information obtained on a caregiver under par. (b). The information shall be made available for inspection by authorized persons, as defined by the department by rule.

(2m) (a) Any entity that places a caregiver in a client’s residence to provide personal care services shall, before the caregiver provides services to the client, do all of the following:

1. Except as provided in par. (b), disclose to the client or the client’s guardian in writing all information obtained under sub. (2) (b) 1. or (bb) regarding any conviction of the caregiver for a crime that is specified by rule under par. (d), and, if the caregiver has demonstrated that he or she has been rehabilitated under sub. (5), notice of that fact.

2. Except as provided in par. (b), disclose to the client or the client’s guardian in writing all information obtained under sub. (2) (b) 2., 4., or 5. regarding the caregiver.

3. Notify the client or the client’s guardian that, for a fee, the department of justice performs for any person a criminal history record search on an individual.

4. Notify the client or the client’s guardian in writing that if the regularly assigned caregiver is unavailable and the entity assigns a substitute caregiver to provide personal care services to the client, the entity is not required to provide the disclosures under subd. 1. or 2. for the substitute caregiver.

(b) If a caregiver whom an entity has placed in a client’s residence to provide personal care services is not available to provide the services and the entity assigns a substitute caregiver to provide personal care services to the client, the entity is not required to make the disclosures under par. (a) 1. and 2. for the substitute caregiver.

(c) Each time that an entity requests information under sub. (3) (b) regarding a caregiver who provides personal care services, the entity shall provide the disclosures required under par. (a) 1. and 2. to each client for whom the caregiver provides personal care services or to the client’s guardian.

(d) The department shall promulgate rules to specify crimes for which an entity must disclose a conviction to a client or the client’s guardian under par. (a) 1. and to specify who is a substitute caregiver for purposes of pars. (a) 4. and (b).

Cross-reference: See also s. DHS 12.115, Wis. adm. code.

(3) (a) Every 4 years or at any time within that period that the department considers appropriate, the department shall request the information specified in sub. (2) (am) 1. to 5. for all persons who are licensed to operate an entity and for all persons who are nonclient residents of an entity.

(b) Every 4 years or at any other time within that period that an entity considers appropriate, the entity shall request the information specified in sub. (2) (b) 1. to 5. for all caregivers of the entity.

(3m) Notwithstanding subs. (2) (b) and (3) (b), if the department obtains the information required under sub. (2) (am) or (3) (a) with respect to a person who is a caregiver specified under sub. (1) (ag) 1. b. and that person is also an employee, contractor or nonclient resident of the entity, the entity is not required to obtain the information specified in sub. (2) (b) or (3) (b) with respect to that person.

(4) An entity that violates sub. (2), (3) or (4m) (b) may be required to forfeit not more than $1,000 and may be subject to other sanctions specified by the department by rule.

(4m) (a) Notwithstanding s. 111.335, and except as provided in sub. (5), the department may not license, certify, issue a certificate of approval to or register a person to operate an entity or continue the license, certification, certificate of approval or registration of a person to operate an entity if the department knows or should have known any of the following:

1. That the person has been convicted of a serious crime.
2. That a unit of government or a state agency, as defined in s. 16.61 (2) (d), has made a finding that the person has abused or neglected any client or misappropriated the property of any client.
3. That a final determination has been made under s. 48.981 (3) (c) 5m. or, if a contested case hearing is held on such a determination, a final decision has been made under s. 48.981 (3) (c) 5. that the person has abused or neglected a child.
4. That, in the case of a position for which the person must be credentialed by the department of safety and professional services, the person’s credential is not current or is limited so as to restrict the person from providing adequate care to a client.

(b) Notwithstanding s. 111.335, and except as provided in sub. (5), an entity may not employ or contract with a caregiver or permit to reside at the entity a nonclient resident, if the entity knows or should have known any of the following:

1. That the person has been convicted of a serious crime.
2. That a unit of government or a state agency, as defined in s. 16.61 (2) (d), has made a finding that the person has abused or neglected any client or misappropriated the property of any client.
3. That a final determination has been made under s. 48.981 (3) (c) 5m. or, if a contested case hearing is held on such a determination, a final decision has been made under s. 48.981 (3) (c) 5p. that the person has abused or neglected a child.

4. That in the case of a position for which the person must be credentialed by the department of safety and professional services, the person’s credential is not current or is limited so as to restrict the person from providing adequate care to a client.

(c) If the background information form completed by a person under sub. (6) (am), or a person’s response or lack of response to a disclosure policy described under sub. (6) (am), indicates that the person is not ineligible to be employed or contracted with for a reason specified in par. (b) 1. to 5., an entity may employ or contract with the person for not more than 60 days pending receipt of the information sought under sub. (2) (b). If the background information form completed by a person under sub. (6) (am), or a person’s response or lack of response to a disclosure policy described under sub. (6) (am), indicates that the person is not ineligible to be permitted to reside at an entity for a reason specified in par. (b) 1. to 5., and if a contested case hearing is held on such a determination, a final decision has been made under s. 48.981 (3) (c) 5p. that the person has abused or neglected a child.

5. That, in the case of a position for which the person must be credentialed by the department of safety and professional services, the person’s credential is not current or is limited so as to restrict the person from providing adequate care to a client.

5p. That the person has abused or neglected a child.
conduct rehabilitation reviews under sub. (5d), to the tribe that he or she has been rehabilitated.

(5c) Any person who is permitted but fails under sub. (5) to demonstrate to the department that he or she has been rehabilitated may appeal to the secretary of health services or his or her designee. Any person who is adversely affected by a decision of the secretary or his or her designee under this subsection has a right to a contested case hearing under ch. 227.

(5d) (a) Any tribe that chooses to conduct rehabilitation reviews under sub. (5) shall submit to the department a rehabilitation review plan that includes all of the following:

1. The criteria to be used to determine if a person has been rehabilitated.
2. The title of the person or body designated by the tribe to whom a request for review must be made.
3. The title of the person or body designated by the tribe to determine whether a person has been rehabilitated.

3m. The title of the person or body designated by the tribe to whom a person may appeal an adverse decision made by the person specified under subd. 3 and whether the tribe provides any further rights of appeal.

4. The manner in which the tribe will submit information relating to a rehabilitation review to the department so that the department may include that information in its report to the legislature required under sub. (5g).

5. A copy of the form to be used to request a review and a copy of the form on which a written decision is to be made regarding whether a person has demonstrated rehabilitation.

(b) If, within 90 days after receiving the plan, the department does not disapprove the plan, the plan shall be considered approved. If, within 90 days after receiving the plan, the department disapproves the plan, the department shall provide notice of that disapproval to the tribe in writing, together with the reasons for the disapproval. The department may not disapprove a plan unless the department finds that the plan is not rationally related to the protection of clients. If the department disapproves the plan, the tribe, may, within 30 days after receiving notice of the disapproval, request that the secretary review the department’s decision. A final decision under this paragraph is not subject to further review under ch. 227.

(5g) Beginning on January 1, 1999, and annually thereafter, the department shall submit a report to the legislature under s. 13.172 (2) that specifies the number of persons in the previous year who have requested to demonstrate to the department that they have been rehabilitated under sub. (5), the number of persons who successfully demonstrated that they have been rehabilitated under sub. (5) and the reasons for the success or failure of a person who has attempted to demonstrate that he or she has been rehabilitated.

(5m) Notwithstanding s. 111.335, the department may refuse to license, certify or register, or issue a certificate of approval to, a caregiver and an entity may refuse to employ or contract with a caregiver or to permit a nonclient resident to reside at the entity, if the caregiver or nonclient resident has been convicted of an offense that is not a serious crime, but that is, in the estimation of the department or entity, substantially related to the care of a client.

(6) (a) The department shall require any person who applies for issuance or continuation of a license, certification, certificate of approval or registration to operate an entity to complete a background information form that is provided by the department.

(am) Every 4 years an entity shall require its caregivers and nonclient residents to complete a background information form that is provided to the entity by the department, except that an entity need not require those caregivers to whom par. (b) does not apply to complete the form if the entity requires the caregivers to disclose to the entity, in writing, all information requested on the form and notifies the caregivers annually of the disclosure requirement.

(b) For caregivers who are licensed, issued a certificate of approval or certified by, or registered with, the department, for nonclient residents, and for other persons specified by the department by rule, the entity shall send the background information form to the department.

(c) A person who provides false information on a background information form required under this subsection or a caregiver who fails to report information as required under a disclosure policy described under par. (am) may be required to forfeit not more than $1,000 and may be subject to other sanctions specified by the department by rule.

(7) The department shall do all of the following:

(c) Conduct throughout the state periodic training sessions that cover criminal background investigations, reporting and investigating misappropriation of property or abuse or neglect of a client; and any other material that will better enable entities to comply with the requirements of this section;

(d) Provide a background information form that requires the person completing the form to include his or her date of birth on the form.

(8) The department may charge a fee for obtaining the information required under sub. (2) (am) or (3) (a) or for providing information to an entity to enable the entity to comply with sub. (2) (b) or (3) (b). No fee may be charged to a nurse aide, as defined in s. 146.60 (1) (d), for obtaining or maintaining the information if to do so would be inconsistent with federal law.


When a collective bargaining agreement required just cause for termination and provided the right to grieve any termination decision, a county did not have sole discretion under sub. (5m) to decide whether to terminate an employee for the commission of a non−serious crime substantially related to the care of a client. As the county had the authority under sub. (5m) to retain the employee despite a conviction, nothing prevented it from agreeing to do so in a manner consistent with the collective bargaining agreement. Brown County v. Wisconsin Employment Relations Commission, 2007 WI App 247, 306 Wis. 2d 213, 742 N.W.2d 916, 07−0155.

50.07 Prohibited acts. (1) No person may:

(a) Intentionally fail to correct or interfere with the correction of a class “A” or class “B” violation within the time specified on the notice of violation or approved plan of correction under s. 50.04 as the maximum period given for correction, unless an extension is granted and the corrections are made before expiration of extension.

(b) Intentionally prevent, interfere with, or attempt to impede in any way the work of any duly authorized representative of the department in the investigation and enforcement of any provision of this subchapter.

(c) Intentionally prevent or attempt to prevent any such representative from examining any relevant books or records in the conduct of official duties under this subchapter.

(d) Intentionally prevent or interfere with any such representative in the preserving of evidence of any violation of any of the provisions of this subchapter or the rules promulgated under this subchapter.

(e) Intentionally retaliate or discriminate against any resident or employee for contacting or providing information to any state official, including any representative of the office of the long−term care ombudsman under s. 16.009 (4), or for initiating, participating in, or testifying in an action for any remedy authorized under this subchapter.

(em) Intentionally retaliate or discriminate against any resident or employee on whose behalf another person contacted or provided information to any state official, including any representative of the office of the long−term care ombudsman under s. 16.009 (4), or initiated, participated in or testified in an action for any remedy authorized under this subchapter.

(f) Intentionally destroy, change or otherwise modify an inspector’s original report.

(2) Violators of this section may be imprisoned up to 6 months or fined not more than $1,000 or both for each violation.
(3) (b) Any employee who is discharged or otherwise retaliated or discriminated against in violation of sub. (1) (e) or (em) may file a complaint with the department of workforce development under s. 106.54 (5).

c. Any person not described in par. (b) who is retaliated or discriminated against in violation of sub. (1) (e) or (em) may commence an action in circuit court for damages incurred as a result of the violation.


Sub. (1) (e) does not provide a remedy to a terminated employee and does not prevent a private action for wrongful termination to an employee who reports abuse. There is a public policy exception to the employment—at will doctrine in this case. Hausman v. St. Croix Care Center, Inc. 214 Wis. 2d 655, 571 N.W.2d 393 (1997), 96−0866.

This section is similar to a patient’s bill of rights. St. Paul Fire and Marine Insurance Co. v. Hausman, 231 Wis. 2d 25, 604 N.W.2d 908 (Ct. App. 1999), 99−1125.

50.08 Informed consent for psychotropic medications. (1) In this section:

(a) “Degenerative brain disorder” has the meaning given in s. 55.01 (1v).

(b) “Incapacitated” has the meaning given in s. 50.06 (1).

(c) “Person acting on behalf of the resident” means a guardian of the person, as defined in s. 54.01 (12), or a health care agent, as defined in s. 155.01 (4).

(d) “Psychotropic medication” means an antipsychotic, an antidepressant, lithium carbonate, or a tranquilizer.

(2) A physician, an advanced practice nurse prescriber certified under s. 441.16 (2), or a physician assistant licensed under ch. 448, who prescribes a psychotropic medication to a nursing home resident who has degenerative brain disorder shall notify the nursing home if the prescribed medication has a boxed warning under 21 CFR 201.57.

(3) (a) Except as provided in sub. (3m) or (4), before administering a psychotropic medication that has a boxed warning under 21 CFR 201.57 to a resident who has degenerative brain disorder, a nursing home shall obtain written informed consent from the resident or, if the resident is incapacitated, a person acting on behalf of the resident on a form provided by the department under par. (b) or on a form that contains the same information as the form under par. (b).

(b) The department shall make available on its website or by mail multiple, drug−specific forms for obtaining informed consent under par. (a) for the administration of psychotropic medication that contain all of the following:

1. A space for a description of the benefits of the proposed treatment and the way the medication will be administered.

2. A description, using the most recently issued information from the federal food and drug administration, of the side effects or risks of side effects of the medication and any warnings about the medication.

3. A space for a description of any alternative treatment modes or medications.

4. A space for a description of the probable consequences of not receiving the medication.

5. A space for indicating the period for which the informed consent is effective, which shall be no longer than 15 months from the time the consent is given.

6. A statement that the resident or a person acting on behalf of the resident may withdraw informed consent, in writing, at any time.

7. A declaration that the resident or the person acting on behalf of the resident has been provided with specific, complete, and accurate information, and time to study the information or to seek additional information concerning the medication.

8. A space for the signature of the resident or the person acting on behalf of the resident.

(c) Written informed consent provided by a guardian is subject to s. 54.25 (2) (d) 2. ab. and ac.

(cm) If a health care agent is acting on behalf of a resident, the health care agent shall give informed consent in accordance with the desires of the resident as expressed in the power of attorney for health care instrument under ch. 155 or, if the resident's desires are unknown, in accordance with s. 155.20 (5).

(d) Upon request, the nursing home shall give the resident, or a person acting on behalf of the resident, a copy of the completed informed consent form.

(e) Unless consent is withdrawn sooner, written informed consent obtained under this subsection is valid for the period specified on the informed consent form but not for longer than 15 months from the date the resident, or a person acting on behalf of the resident, signed the form.

(f) A resident, or a person acting on behalf of the resident, may withdraw consent, in writing, at any time.

(fm) At the time a resident, or a person acting on behalf of the resident, signs the informed consent form, the nursing home shall orally inform the resident, or the person acting on behalf of the resident, of all of the following:

1. That the resident, or the person on behalf of the resident, may withdraw consent, in writing, at any time.

2. That, unless consent is withdrawn sooner, the informed consent is valid for the period specified on the informed consent form or for 15 months from the date on which the resident, or the person acting on behalf of the resident, signs the form, whichever is shorter.

(g) No person may retaliate against or threaten to retaliate against a resident or person acting on behalf of a resident for refusing to provide or withdrawing consent.

(h) The nursing home shall use the most current written informed consent forms available from the department or shall update its own forms with the most current information about the medications available from the department.

(3m) A nursing home is not required to obtain written informed consent before administering a psychotropic medication to a resident under sub. (3) if the prescription for the psychotropic medication is written or reauthorized while the resident is off of the nursing home’s premises.

(4) (a) A nursing home is not required to obtain written informed consent before administering a psychotropic medication to a resident under sub. (3) if all of the following apply:

1. The resident is not the subject of a court order to administer psychotropic medications under s. 55.14.

2. There is an emergency in which a resident is at significant risk of physical or emotional harm and the resident puts others at significant risk of physical harm and in which time and distance preclude obtaining written informed consent before administering psychotropic medication.

3. A physician has determined that the resident or others will be harmed if the psychotropic medication is not administered before written informed consent is obtained.

(b) If par. (a) applies, the nursing home shall obtain oral consent from the resident or, if the resident is incapacitated, a person acting on behalf of the resident, before administering the psychotropic medication, except as provided in par. (c). The oral consent shall be entered in the resident’s medical record. The oral consent shall be valid for 10 days, after which time the nursing home may not continue to administer the psychotropic medication unless it has obtained written informed consent under sub. (3).

(c) If par. (a) applies, the resident is incapacitated, and the nursing home has made a good faith effort to obtain oral consent, under par. (b), of a person acting on behalf of the resident but has been
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unable to contact such a person, the nursing home may administer the psychotropic medication to the resident for up to 24 hours before obtaining consent under par. (a) or sub. (3).

(5) This section does not abridge any rights that a resident has under s. 51.61 (1) (g).

History: 2009 a. 281; 2017 a. 365 s. 112.

50.085 Visitation by family members. (1) DEFINITIONS. In this section:

(a) “Adult child” means an individual who is at least 18 years of age and who is related to a resident biologically, through adoption, through the marriage or former marriage of the resident to the biological parent of the adult child, or by a judgment of parentage entered by a court of competent jurisdiction.

(am) “Family member” means any spouse, adult child, adult grandchild, parent, or sibling of a resident.

(b) “Resident” means an adult resident of any of the following:

1. A hospital, as defined in s. 50.33 (2).
2. A hospice, as defined in s. 50.90 (1).
3. A nursing home, as defined in s. 50.01 (3).
4. A community–based residential facility, as defined in s. 50.01 (1g).

5. Any home or other residential dwelling in which the resident is receiving care and services from any person.

(c) “Visitation” means an in–person meeting or any telephonic, written, or electronic communication.

(2) PETITION FOR VISITATION. If a family member is being denied visitation with a resident, the family member may petition a court to compel visitation with the resident. The court may not issue an order compelling visitation if the court finds any of the following:

(a) The resident, while having the capacity to evaluate and communicate decisions regarding visitation, expresses a desire to not have visitation with that family member.

(b) Visitation between the petitioning family member and the resident is not in the best interest of the resident.

(3) EXPEDITED HEARING. If the petition under sub. (2) states that the resident’s health is in significant decline or that the resident’s death may be imminent, the court shall conduct an emergency hearing on the petition under sub. (2) as soon as practicable and no later than 10 days after the date the petition is filed with the court.

(4) SANCTIONS; REMEDIES. Upon a motion or on the court’s own motion, if the court finds during a hearing on a petition under sub. (2) that a person is knowingly isolating a resident, the court shall order the person to pay court costs and reasonable attorney fees of the petitioner under sub. (2) and may order other appropriate remedies. No costs, fees, or other sanctions may be paid from the resident’s finances or estate.

History: 2015 a. 343.

50.09 Rights of residents in certain facilities. (1) RESIDENTS’ RIGHTS. Every resident in a nursing home or community–based residential facility shall, except as provided in sub. (5), have the right to:

(a) Private and unrestricted communications with the resident’s family, physician, physician assistant, advanced practice nurse prescriber, attorney, and any other person, unless medically contraindicated as documented by the resident’s physician, physician assistant, or advanced practice nurse prescriber in the resident’s medical record, except that communications with public officials or with the resident’s attorney shall not be restricted in any event. The right to private and unrestricted communications shall include, but is not limited to, the right to:

1. Receive, send and mail sealed, unopened correspondence, and no resident’s incoming or outgoing correspondence shall be opened, delayed, held or censored.
2. Reasonable access to a telephone for private communications.
3. Opportunity for private visits.
(b) Present grievances on the resident’s own behalf or to public officials or to any other person without justifiable fear of reprisal, and to join with other residents or individuals within or outside of the facility to work for improvements in resident care.
(c) Manage the resident’s own financial affairs, including any personal allowances under federal or state programs, unless the resident delegates, in writing, such responsibility to the facility and the facility accepts the responsibility or unless the resident delegates to someone else of the resident’s choosing and that person accepts the responsibility. The resident shall receive, upon written request by the resident or guardian, a written monthly account of any financial transactions made by the facility under such a delegation of responsibility.
(d) Be fully informed, in writing, prior to or at the time of admission of all services included in the per diem rate, other services available, the charges for such services, and be informed, in writing, during the resident’s stay of any changes in services available or in charges for services.
(e) Be treated with courtesy, respect and full recognition of the resident’s dignity and individuality, by all employees of the facility and licensed, certified or registered providers of health care and pharmacists with whom the resident comes in contact.
(f) Physical and emotional privacy in treatment, living arrangements and in caring for personal needs, including, but not limited to:

1. Privacy for visits by spouse or domestic partner. If both spouses or both domestic partners under ch. 770 are residents of the same facility, the spouses or domestic partners shall be permitted to share a room unless medically contraindicated as documented by the resident’s physician, physician assistant, or advanced practice nurse prescriber in the resident’s medical record.
2. Privacy concerning health care. Case discussion, consultation, examination and treatment are confidential and shall be conducted discreetly. Persons not directly involved in the resident’s care shall require the resident’s permission to authorize their presence.
3. Confidentiality of health and personal records, and the right to approve or refuse their release to any individual outside the facility, except in the case of the resident’s transfer to another facility or as required by law or 3rd–party payment contracts and except as provided in s. 146.82 (2) and (3).

(g) Not to be required to perform services for the facility that are not included for therapeutic purposes in the resident’s plan of care.

(h) Meet with, and participate in activities of social, religious, and community groups at the resident’s discretion, unless medically contraindicated as documented by the resident’s physician, physician assistant, or advanced practice nurse prescriber in the resident’s medical record.

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

(j) Be transferred or discharged, and be given reasonable advance notice of any planned transfer or discharge, and an explanation of the need for and alternatives to the transfer or discharge. The facility to which the resident is to be transferred must have accepted the resident for transfer, except in a medical emergency or if the transfer or discharge is for nonpayment of charges following a reasonable opportunity to pay a deficiency. No person may be involuntarily discharged for nonpayment under this paragraph if the person meets all of the following conditions:

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1. He or she is in need of ongoing care and treatment and has not been accepted for ongoing care and treatment by another facility or through community support services.

2. The funding of his or her care in the nursing home or community–based residential facility under s. 49.45 (6m) is reduced or terminated because of one of the following:

a. He or she requires a level or type of care which is not provided by the nursing home or community–based residential facility.

b. The nursing home is found to be an institution for mental diseases, as defined under 42 CFR 435.1009.

(k) Be free from mental and physical abuse, and be free from chemical and physical restraints except as authorized in writing by a physician, physician assistant, or advanced practice nurse prescriber for a specified and limited period of time and documented in the resident’s medical record. Physical restraints may be used in an emergency when necessary to protect the resident from injury to himself or herself or others or to property. However, authorization for continuing use of the physical restraints shall be secured from a physician, physician assistant, or advanced practice nurse prescriber within 12 hours. Any use of physical restraints shall be noted in the resident’s medical records. “Physical restraints” includes, but is not limited to, any article, device, or garment that interferes with the free movement of the resident and that the resident is unable to remove easily, and confinement in a locked room.

(L) Receive adequate and appropriate care within the capacity of the facility.

(m) Use the licensed, certified or registered provider of health care and pharmacist of the resident’s choice.

(n) Be fully informed of the resident’s treatment and care and participate in the planning of the resident’s treatment and care.

(2) The department, in establishing standards for nursing homes and community–based residential facilities may establish, by rule, rights in addition to those specified in sub. (1) for residents in such facilities.

(3) If the resident is adjudicated incompetent in this state and not restored to legal capacity, the rights and responsibilities established under this section which the resident is not competent to exercise shall devolve upon the resident’s guardian.

(4) Each facility shall make available a copy of the rights and responsibilities established under this section and the facility’s rules to each resident and each resident’s legal representative, if any, at or prior to the time of admission to the facility, to each person who is a resident of the facility and to each member of the facility’s staff. The rights, responsibilities and rules shall be posted in a prominent place in each facility. Each facility shall provide a written plan and provide appropriate staff training to implement each resident’s rights established under this section.

(5) Rights established under this section shall not, except as determined by the department of corrections, be applicable to residents in such facilities, if the resident is in the legal custody of the department of corrections and is a correctional client in such a facility.

(6) (a) Each facility shall establish a system of reviewing complaints and allegations of violations of residents’ 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, 446 to 450, 455 and 456 shall be promptly reported by the facility to the appropriate licensing, examining or affiliated credentialing board and to the person against whom the allegation has been made. Any employee of the facility and any person licensed, certified or registered under chs. 441, 446 to 450, 455 and 456 may also report such allegations to the board. Such board may make further investigation and take such disciplinary action, within the board’s statutory authority, as the case requires.

50.095 Resident’s right to know; nursing home reports. (1) Every resident in or prospective resident of a nursing home has the right to know certain information from the nursing home which would aid an individual in assessing the quality of care provided by a nursing home.

(2) The department may request from a nursing home information necessary for preparation of a report under sub. (3), and the nursing home, if so requested, shall provide the information.

(3) By July 1, 1998, and annually thereafter, the department shall provide each nursing home and the office of the long–term care ombudsman with a report that includes the following information for the nursing home:

(am) The ratio of nursing staff available to residents per shift at each skill level for the previous year for the nursing home, under criteria that the department shall promulgate as rules;

(b) The staff replacement rates for full–time and part–time nursing staff, nurse aides, and administrators for the previous year for the nursing home and for all similar nursing homes in the same geographical area, as determined by the department.

(c) Violations of statutes or rules by the nursing home during the previous year for the nursing home and for all similar nursing homes in the same geographical area, as determined by the department.

(3m) The department shall prepare a simplified summary of the information required under sub. (3) (am) to (c), as specified by rule by the department. The summary shall be on one sheet of paper and shall be in language that is easily understood by laypersons. The summary shall state that a complete copy of the most recent report of inspection of the nursing home is available from the department, upon request, for a minimal fee.

(4) Upon receipt of a report under sub. (3), the nursing home shall make the report available to any person requesting the report. Upon receipt of a summary under sub. (3m), the nursing home shall provide a copy of the summary to every resident of the nursing home and his or her guardian, if any, to every prospective resident of the nursing home, if any, and to every person who accompanies a prospective resident or acts as the prospective resident’s representative, as defined in s. 655.001 (12), if any.

History:

50.097 Registry. Any person may receive, upon specific written request to the department, requested information that is contained in the registry of individuals under s. 146.40 (4g) (a).

History:

50.098 Appeals of transfers or discharges. The department shall promulgate rules establishing a fair mechanism for hearing appeals on transfers and discharges of residents from nursing homes.

History:
1989 a. 31.
(1) Any person residing in a nursing home has an independent cause of action to correct conditions in the nursing home or acts or omissions by the nursing home or by the department, that:

(a) The person alleges this subchapter or rules promulgated under this subchapter; and

(b) The person alleges are foreseeably related to impairing the person’s health, safety, personal care, rights or welfare.

(2) Actions under this section are for mandamus against the department or for injunctive relief against either the nursing home or the department.

History: 1981 c. 121, 391.

This section applies only to residents of a nursing home, which is different from a community-based residential facility. Residents of community-based residential facilities do not have a private cause of action for statutory or administrative code violations. Fair v. Alternative Living Services, Inc. 2002 WI App 88, 253 Wis. 2d 790, 643 N.W.2d 841, 01−0971.


50.11 Cumulative remedies. The remedies provided by this subchapter are cumulative and shall not be construed as restricting any remedy, provisional or otherwise, provided by law for the benefit of any party, and no judgment under this subchapter shall preclude any party from obtaining additional relief based upon the same facts.

History: 1977 c. 170.

50.12 Waiver of federal requirements. The department shall petition the secretary of the U.S. department of health and human services for a waiver of the requirement that it conduct annual medical assistance surveys of nursing homes, for a waiver of the requirement that it conduct annual independent medical reviews and independent professional reviews, to allow the department under ss. 45.50, 48.62, 51.05, 51.06, 233.40, 233.41, 233.42 and 252.10 to conduct mandamus reviews and reviews and for any waivers necessary to implement the special requirements promulgated under s. 50.02 (3) (d).

History: 1981 c. 121; 1985 a. 29.

50.13 Fees permitted for a workshop or seminar. If the department develops and provides a workshop or seminar relating to the provision of service by facilities, adult family homes or residential care apartment complexes under this subchapter, the department may establish a fee for each workshop or seminar and impose the fee on registrants for the workshop or seminar. A fee so established and imposed shall be in an amount sufficient to reimburse the department for the costs directly associated with developing and providing the workshop or seminar.

History: 1985 a. 120; 1997 a. 27.

50.135 Licensing and approval fees for inpatient health care facilities. (1) Definition. In this section, “inpatient health care facility” means any hospital, nursing home, county home, county mental hospital or other place licensed or approved by the department under ss. 49.70, 49.71, 49.72, 50.02, 50.03, 50.35, 51.08 and 51.09, but does not include community−based residential facilities.

(2) Fees. (a) The annual fee for any inpatient health care facility except a nursing home is $18 per bed, based on the number of beds for which the facility is licensed. The annual fee for any nursing home is $6 per bed, based on the number of beds for which the nursing home is licensed. This fee shall be paid to the department on or before October 1 for the ensuing year. Each new inpatient health care facility shall pay this fee no later than 30 days before it opens.

(b) Any inpatient health care facility that fails to pay its fee on or before the date specified in par. (a) shall pay an additional fee of $10 per day for every day after the deadline.

(c) The fees collected under par. (a) shall be credited to the appropriation account under s. 20.435 (6) (jm) for licensing, review and certifying activities.

(3) Exemption. The inpatient health care facilities under ss. 45.50, 48.62, 51.05, 51.06, 233.40, 233.41, 233.42 and 252.10 are exempt from this section.


Sub. (1) requires that all of the specifically enumerated facilities must be places licensed or approved by DHFS. A VA hospital is not within the definition of inpatient health care facility as it is subject to federal regulation and is not licensed or regulated by the state. State v. Powers, 2004 WI App 156, 276 Wis. 2d 107, 687 N.W.2d 50, 03−1514.

50.14 Assessments on licensed beds. (1) In this section:

(a) Notwithstanding s. 50.01 (1m), “facility” means a nursing home or an intermediate care facility for persons with an intellectual disability that is not located outside the state.

(b) “Intermediate care facility for persons with an intellectual disability” has the meaning given for “intermediate care facility for the mentally retarded” under 42 USC 1396d (d).

(2) For the privilege of doing business in this state, there is imposed on all licensed beds of a facility an assessment in the following amount per calendar month per licensed bed of the facility:

(am) For nursing homes, an amount not to exceed $150 in state fiscal year 2009−10, and, beginning in state fiscal year 2010−11, an amount not to exceed $170.

(bm) For intermediate care facilities for persons with an intellectual disability, $910.

(2g) The assessment moneys collected under this section shall be deposited in the Medical Assistance trust fund.

(2r) In determining the number of licensed beds, all of the following apply:

(a) If the amount of the beds is other than a whole number, the fractional part of the amount shall be disregarded unless it equals 50 percent or more of a whole number, in which case the amount shall be increased to the next whole number.

(b) The number of licensed beds of a nursing home includes any number of beds that have been delicensed under s. 49.45 (6m) (ap) 1. but not deduced from the nursing home’s licensed bed capacity under s. 49.45 (6m) (ap) 4. a.

(3) By the end of each month, each facility shall submit to the department the amount due under sub. (2) for each licensed bed of the facility for the month preceding the month during which the payment is being submitted. The department shall verify the number of beds licensed and, if necessary, make adjustments to the payment, notify the facility of changes in the payment owing and send the facility an invoice for the additional amount due or send the facility a refund.

(4) Sections 77.59 (1) to (5m), (6) (intro.), (a) and (c) and (7) to (10), 77.60 (1) to (7), (9) and (10), 77.61 (9) and (12) to (14) and 77.62, as they apply to the taxes under subch. III of ch. 77, apply to the assessment under this section, except that the amount of any assessment collected under s. 77.59 (7) in a fiscal year shall be deposited in the Medical Assistance trust fund.

(5) (a) The department shall levy, enforce and collect the assessment under this section and shall develop and distribute forms necessary for levying and collection.

(b) The department shall promulgate rules that establish procedures and requirements for levying the assessment under this section.

(6) (a) An affected facility may contest an action by the department under this section by submitting a written request for a hearing to the department within 30 days after the date of the department’s action.
(b) Any order or determination made by the department under a hearing as specified in par. (a) is subject to judicial review as pre- 
scribed under ch. 227.

History: 1991 a. 269; 1993 a. 16; 1995 a. 27; 1997 a. 114; 2003 a. 33; 2005 a. 25,

Cross-reference: See also ch. DHS 15, Wis. adm. code.

SUBCHAPTER II

HOSPITALS

50.32 Hospital regulation and approval act. Sections 50.32 to 50.39 shall constitute the “Hospital Regulation and Approval Act”.

History: 1975 c. 413 ss. 4, 18; Stats. 1975 s. 50.32.

Cross-reference: See also ch. DHS 124, Wis. adm. code.

50.33 Definitions. Whenever used in ss. 50.32 to 50.39:

(1c) “Conditions for Medicare participation for hospitals” means the conditions of participation specified under 42 CFR 482 or, with respect to critical access hospitals, 42 CFR 485.

(1g) “Critical access hospital” means a hospital that is designated by the department as meeting the requirements of 42 USC 1395j–4 (c) 2 (B) and is federally certified as meeting the requirements of 42 USC 1395j–4 (e).

(1r) “Governmental unit” means the state, any county, town, city, village, or other political subdivision or any combination thereof, department, division, board or other agency of any of the foregoing.

(2) (a) “Hospital” means any building, structure, institution or place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment of and medical or surgical care for 3 or more nonrelated individuals hereinafter designated patients, suffering from illness, disease, injury or disability, whether physical or mental, and including pregnancy and regularly making available at least clinical laboratory services, and diagnostic X-ray services and treatment facilities for surgery, or obstetrical care, or other definitive medical treatment.

(b) “Hospital” may include, but not in limitation thereof by enumeration, related facilities such as outpatient facilities, nurses’, interns’ and residents’ quarters, training facilities and central service facilities operated in connection with hospitals.

(c) “Hospital” includes “special hospitals” or those hospital facilities that provide a limited type of medical or surgical care, including orthopedic hospitals, children’s hospitals, critical access hospitals, mental hospitals, psychiatric hospitals or maternity hospitals.

(3) “Requirements for hospitals” means all of the rules, standards, and requirements described in or promulgated under ss. 50.32 to 50.39 that apply to hospitals, including the standards described under s. 50.36 (1).

History: 1975 c. 413 ss. 4, 18; Stats. 1975 s. 50.33; 1977 c. 83 ss. 26 (4); 1979 c. 175; 1983 a. 189; 1997 a. 237; 2013 a. 236.

50.34 Purpose. The purpose of ss. 50.32 to 50.39 is to provide for the development, establishment and enforcement of rules and standards for the construction, maintenance and operation of hospitals which, in the light of advancing knowledge, will promote safe and adequate care and treatment of patients in such hospitals.

History: 1975 c. 413 ss. 4, 18; Stats. 1975 s. 50.34.

50.35 Application and approval. Application for approval to maintain a hospital shall be made to the department on forms provided by the department. On receipt of an application, the department shall, except as provided in s. 50.498, issue a certificate of approval if the applicant and hospital facilities meet the requirements for hospitals. The department shall issue a single certificate of approval for the University of Wisconsin Hospitals and Clinics Authority that applies to all of the Authority’s inpa-
Memorandum

To: Lakeland Health Care Center Board of Trustees
   Human Resources Committee
Cc: Mark Luberda, County Administrator
From: Elizabeth Aldred, Health & Human Services Director –
      Superintendent of County Institutions
Date: April 16, 2020
RE: Resolution Authorizing the Reclassification of the Assistant Nurse
    Manager Position to a Nurse Manager Position, the
    Reclassification of a CNA Position to a Nurse Manager Position
    and the Elimination of a CNA Position at the Lakeland Health
    Care Center

Lakeland Health Care Center continues to move forward with its reorganization
of personnel, based on the downsizing plan that has taken us to a 90 bed facility.
In December 2019 we came to the Trustees with a proposal to reduce our staffing,
immediately and over time as positions became available. At the time of our
earlier request to downsize our staffing levels we informed the board that we were
over staffed in Certified Nursing Assistants (CNAs) and Licensed Practical
Nurses (LPNs) on certain shifts. At the time the decision was made to not
eliminate any current employees since there were a variety of vacant positions on
other shifts and in other roles. The funding for those positions remained in the
budget as we did not know when the positions would become vacant by attrition.

We have now received one resignation and one retirement of C.N.A. employees
that can now be eliminated. By eliminating these positions we will be able to
redirect resources to where they are needed.

In November 2019 we eliminated the second of two nurse manager positions.
Both positions were vacant at the time and with the uncertainty of the upcoming
downsize to 90 beds this was considered the best course of action. In late
December we hired an assistant nurse manager who then reported directly to the
Director of Nursing. At the time of the nurse manager elimination we were asked
by the Trustees to reevaluate the elimination since it was felt that more
supervision would be necessary for the nursing staff. We have taken the past few
months to do this evaluation. Based on our current experience with the 90 bed
facility needs and the needs of the staff and residents we are requesting that we
upgrade our current Assistant Nurse Manager to a Nurse Manager and create a
second Nurse Manager position. One nurse manager would be assigned direct
oversight of the long term care/dementia units and the second nurse manager would be assigned the short term rehab unit. The split in assignments will allow the nurse managers to provide additional oversight on first and second shift to our RN, LPN and C.N.A. staff as well as provide specialized training for their assigned area of care. As we transition to a short term rehabilitation model we have seen significantly higher numbers of intakes and discharges on our rehab unit. These requires additional nursing leadership to make sure that resident treatments are implemented accurately, promptly and with efficiency so that they can transition home effectively.

We will be asking our Assistant Director of Nursing to take on the role of our infection prevention specialist, wound nurse and training nurse in addition to being responsible for the nursing department in the absence of the Director of Nursing. We have seen a significant increase in the need to address infection prevention protocols during the COVID-19 pandemic. This is not expected to change in the future. Additionally, over 50% of our staff within the department are new to us since 2018. This means that we have a heightened need for training on basic clinical protocols as well as on facility policies. Our direct care staff have been asking for additional training and support in these areas especially since we have changed our electronic health record and increased our need for skilled nursing by expanding our short term rehab services.

This plan seeks to eliminate one currently vacant C.N.A position, upgrade one C.N.A. position to a nurse manager as of June 29, 2020, and to upgrade the current assistant nurse manager to a nurse manager. Furthermore, we would seek permission to begin recruitment immediately for the additional nurse manager position as it is difficult to hire quality staff during this pandemic.

Funding for these changes will be found in the savings from the eliminated C.N.A. positions and the cost savings from the vacant Director of Nursing position. These changes would result in a cost savings of $8,455 in 2020 and an annualized cost of $6,483.
Resolution No. xx - 05/20

Authorizing the Reclassification of the Assistant Nurse Manager Position to a Nurse Manager Position, the Reclassification of a CNA Position to a Nurse Manager Position and the Elimination of a CNA Position at the Lakeland Health Care Center

Moved/Sponsored by: Human Resources Committee

WHEREAS, there is currently 1.00 FTE Assistant Nurse Manager position and 46.20 FTE Certified Nursing Assistant positions at the Lakeland Health Care Center (“LHCC”); and,

WHEREAS, LHCC Administration seeks to reclassify the 1.00 FTE Assistant Nurse Manager position to a 1.00 FTE Nurse Manager position, reclassify a 1.00 FTE Certified Nursing Assistant position to a 1.00 FTE Nurse Manager position and eliminate a vacant 1.00 FTE Certified Nursing Assistant position at the Lakeland Health Care Center to better meet the staffing needs of the LHCC since the reduction in beds; and,

WHEREAS, the Human Resources Committee (“Committee”) has considered the reclassification of the 1.00 FTE Assistant Nurse Manager position to a 1.00 FTE Nurse Manager position, the reclassification of a 1.00 FTE Certified Nursing Assistant position to a 1.00 FTE Nurse Manager position and the elimination of a vacant 1.00 FTE Certified Nursing Assistant position at the Lakeland Health Care Center and hereby recommends the reclassifications and elimination.

NOW, THEREFORE, BE IT RESOLVED by the Walworth County Board of Supervisors that the reclassification of the 1.00 FTE Assistant Nurse Manager position to a 1.00 FTE Nurse Manager position, the reclassification of a 1.00 FTE Certified Nursing Assistant position to a 1.00 FTE Nurse Manager position and the elimination of a vacant 1.00 FTE Certified Nursing Assistant position at the Lakeland Health Care Center be and the same are hereby approved.

BE IT FURTHER RESOLVED that the reclassification of the 1.00 FTE Assistant Nurse Manager position to a 1.00 FTE Nurse Manager position shall be effective as of May 18, 2020, the reclassification of a 1.00 FTE Certified Nursing Assistant position to a 1.00 FTE Nurse Manager position shall be effective as of June 29, 2020 and the elimination of the vacant 1.00 FTE Certified Nursing Assistant position shall be effective as of June 2, 2020.

BE IT FURTHER RESOLVED that the County Administrator shall update the appropriate Administrative Procedure to eliminate the 1.00 FTE Assistant Nurse Manager position and reflect the new FTE count of 1.00 FTE Nurse Manager position as of May 18, 2020; 45.20 FTE Certified Nursing Assistant positions as of June 2, 2020; and 44.20 FTE Certified Nursing Assistant positions and 2.00 FTE Nurse Manager positions as of June 29, 2020, with the Lakeland Health Care Center departmental total and County grand totals being adjusted accordingly for the overall 1.00 FTE decrease with the effective dates as indicated above.
Nancy Russell
County Board Chair

Kimberly S. Bushey
County Clerk

County Board Meeting Date: May 12, 2020

Action Required: Majority Vote X Two-thirds Vote _____ Other _____

Policy and Fiscal Note is attached.
Reviewed and approved pursuant to Section 2-91 of the Walworth County Code of Ordinances:

____________________________  _______________________
Michael P. Cotter              Jessica Conley
Corporation Counsel           Finance Director

____________________________
Mark W. Luberda
County Administrator

If unsigned, exceptions shall be so noted by the County Administrator.
I. **Title:** Authorizing the Reclassification of the Assistant Nurse Manager Position to a Nurse Manager Position, the Reclassification of a CNA Position to a Nurse Manager Position and the Elimination of a CNA Position at the Lakeland Health Care Center

II. **Purpose and Policy Impact Statement:** The purpose of this resolution is to reclassify a 1.00 FTE Assistant Nurse Manager position to a 1.00 FTE Nurse Manager position, reclassify a 1.00 FTE CNA position to a 1.00 FTE Nurse Manager Position and to eliminate a 1.00 FTE CNA Position at the Lakeland Health Care Center.

III. **Budget and Fiscal Impact:** Passage of this resolution will result in a savings of $8,455 in 2020 and a cost of $6,483 annually.

IV. **Referred to the following standing committees for consideration and date of referral:**

   Committee: Human Resources Date: April 29, 2020

   Vote:

   Committee: LHCC Date: April 29, 2020

   Vote:

   County Board Meeting Date: May 12, 2020

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Policy and fiscal note has been reviewed and approved as an accurate statement of the probable policy and fiscal impacts associated with passage of the attached resolution.

Michael P. Cotter Date
Corporation Counsel

Jessica Conley Date
Finance Director

Mark W. Luberda Date
County Administrator
LAKELAND HEALTH CARE CENTER
2020 AGING BALANCE & FACILITY WRITE-OFF PLAN

PRESENTATION TO WALWORTH COUNTY
LAKELAND HEALTH CARE CENTER BOARD OF TRUSTEES
APRIL 29, 2020
CURRENT ACCOUNT WRITE OFF PRACTICE

- QUARTERLY APPROVAL BY BOARD FOR ACCOUNT WRITE-OFFS
- ONCE APPROVED, WRITE-OFF ACCOUNTS IN BILLING SYSTEM
- ANNUALLY, DO AN ANALYSIS OF RESIDENT ACCOUNT BALANCES TO COMPLETE AN ALLOWANCE FOR DOUBTFUL ACCOUNTS ENTRY & RECORD BAD DEBT EXPENSE
ALLOWANCE FOR DOUBTFUL ACCOUNTS

- ANALYZE EACH RESIDENT’S OUTSTANDING BALANCE AS OF 12/31

- DETERMINE THE LIKELIHOOD OF COLLECTING ON BALANCES

- RECORD AN ENTRY TO ALLOWANCE FOR DOUBTFUL ACCOUNTS WHICH REDUCES THE ACCOUNTS RECEIVABLE BALANCE TO A MORE REALISTIC PICTURE OF THE A/R AMOUNT THAT WILL TURN INTO CASH
As of Dec 31, 2019, LHCC totaled $2 million in accounts receivable.

71% of A/R was 90+ days old – Industry standard is 15%.

LHCC anticipated $900,000 would be uncollectible.

Prior Year GL balance for the Allowance was $608,941.

To bring the balance up to $900,000, an entry to Bad Debt Expense was made in 2019 for $291,058.
2020 WRITE OFFS

- Electronic medical record change from ECS to PCC during the last quarter of 2019 resulted in review of old accounts with outstanding balance back to 2015 and a need for reconciliation of accounts.

- Writing off of old accounts is needed to create a more accurate picture of the aging balance and A/R.
2020 WRITE-OFF RECOMMENDATIONS BY PAY SOURCE

MEDICAID

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- Timely Filing
- Claim denials due to errors & resubmission out of billing window
2020 WRITE-OFF RECOMMENDATIONS BY PAY SOURCE HOSPICE

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- Timely Filing
- Incorrect payer sources
- Incorrect liability calculations
2020 WRITE-OFF RECOMMENDATIONS BY PAY SOURCE
MEDICARE ADVANTAGE/MEDICARE

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- Timely Filing
- Errors in copay billing
- Therapy limits reached
- Vaccine denials
2020 WRITE-OFF RECOMMENDATIONS BY PAY SOURCE
PRIVATE PAY

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<td>$229,562</td>
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- Attorney recommended after pursing collections
- Results from Medicaid Pending cases & divestments
- 2 residents off of $30K report
# 2020 WRITE-OFF RECOMMENDATIONS

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<th>PAY SOURCE</th>
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<td><strong>TOTAL</strong></td>
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CURRENT MITIGATION STEPS

- Working with expert contracted biller to review old accounts and bill outstanding balances
- Hired new Business Office Manager with experience in billing and reducing bad debt
- HHS Admin Manager providing oversight & connecting LHCC with HHS Economic Support to assist with MA Pending cases
- Transparent reporting to Board
PLAN FOR NEXT 9 MONTHS

- Continue consulting with contracted biller to review outstanding balances & bill
- In house billing staff process & track hospice and private pay collection
- Provide training to staff on billing, new EMR system & LTC Medicaid Application
- Collaborate with Economic Support Program for training & staff representation
- Work with Corp Counsel on collection efforts
- Complete a mid-year doubtful account analysis & bad debt entry to ensure we are on target
1 YEAR BENCHMARK GOALS

- All accounts over 90 days equal less than 15% of total A/R
- Collect 100% of current billed dollars to show progress on older accounts
- Process bad debt twice a year to keep the aging report a workable tool
- Monthly meetings to review the aging balances & set new goals & action steps
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<td>Year</td>
<td>Summary</td>
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</table>

Total **$422,753.08**
**Summary Statement of Deficiencies**

During this recertification and complaint survey conducted from 3/11/2020-3/16/2020, Lakeland Health Care Center was in compliance with the requirements of 42 CFR 483, Requirements for Long Term Care Facilities.

Census: 88
Sample size: 18

Any deficiency statement ending with an asterisk (*) denotes a deficiency which the institution may be excused from correcting providing it is determined that other safeguards provide sufficient protection to the patients. (See instructions.) Except for nursing homes, the findings stated above are disclosable 90 days following the date of survey whether or not a plan of correction is provided. For nursing homes, the above findings and plans of correction are disclosable 14 days following the date these documents are made available to the facility. If deficiencies are cited, an approved plan of correction is requisite to continued program participation.
Memorandum

To: Lakeland Health Care Center Board of Trustees  
   Human Resources Committee

Cc: Mark W. Luberda, County Administrator

From: Elizabeth Aldred, Health & Human Services Director –  
   Superintendent of County Institutions

Date: April 17, 2020

RE: Addition of a Special Pay Premium for Direct, On-Going COVID  
   Resident Treatment at LHCC

Lakeland Health Care Center is requesting the addition of a special pay code for  
individuals who are asked to work with a COVID positive person in the event that  
someone at Lakeland Health Care Center becomes infected.

Over the course of the current pandemic we have had to plan for a potential  
exposure due to a sick resident or staff. In the case of a resident who tests  
positive for the Coronavirus we have developed an infection control plan that  
takes into account infection control policies such as Personal Protective  
Equipment (PPE), isolations rooms and an isolation area with a negative pressure  
environment in our vacant wing. Our staff have all been training on droplet  
precautions and infection control practices. All staff within the facility are  
wearing masks at all times and are wearing other PPE when working with a new  
resident or a resident that has respiratory symptoms, a fever or has been outside  
of the facility for a medical appointment.

Even with these extensive precautions in place it is possible that we may have a  
person or persons who may become ill and test positive for the COVID-19. If that  
were to occur we would place the resident in one of our negative pressure rooms.  
If three or more individuals were to become sick we would open our C-wing as an  
isolation wing. Standard treatment precautions for this illness are to assign  
specific staff to work in this environment. Staff who worked on this wing would  
not be allowed to work with other residents to reduce the risk of spread.

We would be required to maintain appropriate staffing levels when working with  
any of our residents. One C.N.A can be assigned up to seven residents at a time.  
One RN/LPN would also need to be assigned to make sure that skilled nursing  
services are available while the individual is sick.
We are in the process of asking for volunteers for an infection control team. Volunteers for the infection control team would be called upon to work with COVID positive resident(s). They would be asked to work up to 12 hr. shifts so that we could limit the number of staff that came into direct contact with a symptomatic resident. They would be given PPE to protect them from exposure to the illness and would be expected to provide all necessary services including bathing, feeding and toileting as necessary. Food would be supplied from the kitchen and passed to the staff person to reduce exposure of other staff within the facility.

At this time we are seeking your approval for a special pay premium for staff who are assigned to work with a COVID-19 positive resident.

<table>
<thead>
<tr>
<th>Type of Premium</th>
<th>How Much</th>
<th>Who</th>
<th>Special notes</th>
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</thead>
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<td>Infection control team</td>
<td>$1.50/ hr. up to $5.00/ hr.</td>
<td>RN Unit Supervisor LPN Unit Supervisor Certified Nursing Assistant Certified Medical Assistant Recreation Therapy Lead Other Licensed RN/LPN staff</td>
<td>Received when assigned to work with a COVID positive resident in an isolation area.</td>
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</table>

Our research has shown that hospitals and nursing homes in the SE region of the state are providing premium pay to staff who are assigned to work with individual who are positive for the illness.

<table>
<thead>
<tr>
<th>Facility</th>
<th>Incentive pay</th>
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<tbody>
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<td>Freudenter Hospital</td>
<td>$15/hr for RNs</td>
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<tr>
<td>Aurora Health Care</td>
<td>$10/hr for working in hospital and $10/hr additional for working with a COVID positive patient</td>
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<tr>
<td>Private Nursing home #1, #2</td>
<td>$5/hr</td>
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<tr>
<td>Private Nursing home #3</td>
<td>Time and a half</td>
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<tr>
<td>Private Nursing home #4</td>
<td>$1.2/ hr</td>
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<td>Private Nursing home #5</td>
<td>$1.2/hr when there is a positive for all staff</td>
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<tr>
<td>Private Nursing home #6</td>
<td>$1/hr for exempt RNs, $0.75 for LPN, $0.50 for all other staff. This facility will be providing increase payment prior to a COVID positive case and is evaluating additional pay when working with a resident who is positive.</td>
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<tr>
<td>Sheboygan County Nursing Home</td>
<td>Proposal to their county board will discuss $5, $10, or $20/hr options</td>
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<tr>
<td>-----------------------------</td>
<td>---------------------------------------------------------------</td>
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<tr>
<td>La Crosse County Nursing Home</td>
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<td>Ozaukee County Nursing Home</td>
<td>$20/ hr</td>
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<td>Kenosha County Nursing Home</td>
<td>5% increase</td>
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<tr>
<td>Green County Nursing Home</td>
<td>$10/hr of nurses</td>
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As a manner of context the following are the base wage ranges for the provided positions.

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<tr>
<td>LPN Unit Supervisor</td>
<td>23.36</td>
<td>30.47</td>
</tr>
<tr>
<td>RN Unit Supervisor</td>
<td>30.98</td>
<td>40.36</td>
</tr>
<tr>
<td>Recreation Therapy Leader</td>
<td>15.59</td>
<td>21.07</td>
</tr>
</tbody>
</table>

*These above noted pay ranges do not include special pay premiums for shift differential, weekend, or holiday pay.

Developing a cost analysis for this special pay premium would be based on the following factors:

The expected course of the illness would be 14-21 days.

<table>
<thead>
<tr>
<th># of residents testing positive</th>
<th>Number of staff working at any point in time</th>
<th>Total cost for the premium pay at $1/hr.</th>
<th>Total Cost of the premium pay at $1.50/hr.</th>
<th>Total cost for the premium pay at $5/hr.</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-7 residents</td>
<td>2 staff</td>
<td>$1008</td>
<td>$1260</td>
<td>$5,040</td>
</tr>
<tr>
<td>8-15 residents</td>
<td>3 staff</td>
<td>$1512</td>
<td>$1764</td>
<td>$7,560</td>
</tr>
<tr>
<td>16-23 residents</td>
<td>4 staff</td>
<td>$2016</td>
<td>$2268</td>
<td>$10,080</td>
</tr>
<tr>
<td>24-30 residents</td>
<td>5 staff</td>
<td>$2520</td>
<td>$2772</td>
<td>$12,600</td>
</tr>
</tbody>
</table>

Special pay premiums would end when there are no remaining residents in the facility that are COVID positive and remain symptomatic. Once COVID positive residents are transferred to a hospital setting, are for any reason no longer at
LHCC, or are cleared by their treating physician they will no long require staff who are receiving special premium pay.

Other staff within the facility who are working with A-symptomatic and COVID negative residents will not be eligible for premium pay. Staff who are not considered essential to be on the COVID isolation unit or rooms will not be eligible for a premium pay.

In the grid above we have identified the RN, LPN, CMA, C.N.A and recreations therapy leaders as individuals who can receive premium pay. All recreations therapy leaders are C.N.A certified and therefore could function in the role of a C.N.A. Staff that are given a secondary classification of a C.N.A will also qualify. Staff that work in the business office or as part of the leadership team who are licensed or certified in one of these categories may also qualify for the premium pay under these circumstances, even if the certification is due to a temporary waiver of certain requirements.

Staff working on second and third shift as well as those working on holidays and weekends would remain eligible for their premium pays for those categories. Shift differential, holiday and weekend pay allocations would have no impact on the facility as those funds are already budgeted for. It is unsure if funding for these premium payments will be reimbursable under specialty payments related to the state of emergency. The State of Wisconsin decided this week to not authorize hazard payments at this time for essential workers.

Based on the above noted information, it is my recommendation that we add a special pay premium of a minimum of $1.50 per hour and up to $5.00 per hour to all staff who are assigned to work with residents who meet the above started criteria.
Memorandum

To: Lakeland Health Care Center Board of Trustees
Finance Committee

Cc: Mark W. Luberda, County Administrator

From: Elizabeth Aldred, Superintendent of County Institutions
Health & Human Services Director

Date: April 21, 2020

RE: Authorization to Accept CARES Act Funds

Lakeland Health Care Center received notification of a CARES Act Provider Relief Fund payment of $96,120.79 from DHS on April 17, 2020. Providers who have been allocated a payment from the initial $30 billion general distribution must sign an attestation confirming receipt of the funds and agree to the terms and conditions within 30 days of payment.

LHCC received these funds because it is a facility that received Medicare fee-for-service reimbursements in 2019. The funds do not need to be repaid. However, as a condition of receiving these funds, providers must agree not to seek collection of out-of-pocket payments from a COVID-19 patient that are greater than what the patient would have otherwise been required to pay if the care had been provided by an in-network provider.

Upon review we do not believe that costs to the health care center costs would exceed the above noted payment. We are recommending approval of these funds at this time. We will return to the LHCC Trustees and the Finance Committee in a future month once we have determined the best use for these funds.
### Worker's Compensation

<table>
<thead>
<tr>
<th>Injuries</th>
<th>January</th>
<th>February</th>
<th>March</th>
<th>April</th>
<th>May</th>
<th>June</th>
<th>July</th>
<th>August</th>
<th>September</th>
<th>October</th>
<th>November</th>
<th>December</th>
<th>Year to Date</th>
<th>Prior Year</th>
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<tbody>
<tr>
<td></td>
<td>5</td>
<td>0</td>
<td>5</td>
<td>4</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>4</td>
<td>3</td>
</tr>
</tbody>
</table>

| Lost Time Hours | 16.00 | 0.00 |

<table>
<thead>
<tr>
<th>Worker's Compensation Paid in 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>2020</td>
</tr>
<tr>
<td>2019</td>
</tr>
<tr>
<td>2018</td>
</tr>
</tbody>
</table>

### Grand Totals Transactions
- Injuries: 5
- Claims Filed: 5
- Lost Time Hours: 16.00
- Worker's Compensation Paid in 2020: $27,447.26

### Overtime Costs

<table>
<thead>
<tr>
<th>CNAs/CMAs</th>
<th>January</th>
<th>February</th>
<th>March</th>
<th>April</th>
<th>May</th>
<th>June</th>
<th>July</th>
<th>August</th>
<th>September</th>
<th>October</th>
<th>November</th>
<th>December</th>
<th>Year to Date</th>
<th>Prior Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>$6,765</td>
<td>$6,833</td>
<td>$13,598</td>
<td>$26,244.00</td>
<td>$328,844</td>
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</tr>
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<tr>
<td>LPN</td>
<td>$2,566</td>
<td>$2,678</td>
<td>$5,245</td>
<td>$45,853</td>
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<tr>
<td>All Other</td>
<td>$1,371</td>
<td>$701</td>
<td>$2,072</td>
<td>$18,701</td>
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### Overtime Hours

<table>
<thead>
<tr>
<th>CNAs/CMAs</th>
<th>January</th>
<th>February</th>
<th>March</th>
<th>April</th>
<th>May</th>
<th>June</th>
<th>July</th>
<th>August</th>
<th>September</th>
<th>October</th>
<th>November</th>
<th>December</th>
<th>Year to Date</th>
<th>Prior Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>82.00</td>
<td>101.00</td>
<td>183.00</td>
<td>2,524.00</td>
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<td></td>
<td></td>
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</table>

<table>
<thead>
<tr>
<th>Call Ins</th>
<th>67</th>
<th>55</th>
<th>122.00</th>
<th>126</th>
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</table>

<table>
<thead>
<tr>
<th>Licensed Staff</th>
<th>January</th>
<th>February</th>
<th>March</th>
<th>April</th>
<th>May</th>
<th>June</th>
<th>July</th>
<th>August</th>
<th>September</th>
<th>October</th>
<th>November</th>
<th>December</th>
<th>Year to Date</th>
<th>Prior Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>158.00</td>
<td>133.75</td>
<td>231.00</td>
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</table>

<table>
<thead>
<tr>
<th>Overtime Hours</th>
<th>200.00</th>
<th>193.75</th>
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<tbody>
<tr>
<td>Call Ins</td>
<td>15</td>
<td>11</td>
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<tr>
<td>Mandatory Add'l Hours</td>
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### Resident Census

<table>
<thead>
<tr>
<th>Admissions</th>
<th>January</th>
<th>February</th>
<th>March</th>
<th>April</th>
<th>May</th>
<th>June</th>
<th>July</th>
<th>August</th>
<th>September</th>
<th>October</th>
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<th>Year to Date</th>
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<tbody>
<tr>
<td>16</td>
<td>13</td>
<td>13</td>
<td>29</td>
<td>147</td>
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<td></td>
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<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Discharges/Death</th>
<th>January</th>
<th>February</th>
<th>March</th>
<th>April</th>
<th>May</th>
<th>June</th>
<th>July</th>
<th>August</th>
<th>September</th>
<th>October</th>
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<th>Year to Date</th>
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<tbody>
<tr>
<td>10</td>
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<td>23</td>
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<table>
<thead>
<tr>
<th>Referrals</th>
<th>January</th>
<th>February</th>
<th>March</th>
<th>April</th>
<th>May</th>
<th>June</th>
<th>July</th>
<th>August</th>
<th>September</th>
<th>October</th>
<th>November</th>
<th>December</th>
<th>Year to Date</th>
<th>Prior Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>83</td>
<td>65</td>
<td>84.00</td>
<td>98.00</td>
<td>86.50</td>
<td>96.10</td>
<td>100.00</td>
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<table>
<thead>
<tr>
<th>Average Resident Census</th>
<th>January</th>
<th>February</th>
<th>March</th>
<th>April</th>
<th>May</th>
<th>June</th>
<th>July</th>
<th>August</th>
<th>September</th>
<th>October</th>
<th>November</th>
<th>December</th>
<th>Year to Date</th>
<th>Prior Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>84.00</td>
<td>89.00</td>
<td>93.30%</td>
<td>98.90%</td>
<td>96.10%</td>
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### Patient Payor Mix

<table>
<thead>
<tr>
<th>Medicaid</th>
<th>January</th>
<th>February</th>
<th>March</th>
<th>April</th>
<th>May</th>
<th>June</th>
<th>July</th>
<th>August</th>
<th>September</th>
<th>October</th>
<th>November</th>
<th>December</th>
<th>Year to Date</th>
<th>Prior Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>69.19%</td>
<td>67.2%</td>
<td>68.20%</td>
<td>68.72%</td>
<td>68.72%</td>
<td></td>
<td></td>
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</table>

<table>
<thead>
<tr>
<th>Medicare</th>
<th>January</th>
<th>February</th>
<th>March</th>
<th>April</th>
<th>May</th>
<th>June</th>
<th>July</th>
<th>August</th>
<th>September</th>
<th>October</th>
<th>November</th>
<th>December</th>
<th>Year to Date</th>
<th>Prior Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>8.11%</td>
<td>10.3%</td>
<td>9.19%</td>
<td>7.17%</td>
<td>7.17%</td>
<td></td>
<td></td>
<td></td>
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<td></td>
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</table>

<table>
<thead>
<tr>
<th>Private Pay</th>
<th>January</th>
<th>February</th>
<th>March</th>
<th>April</th>
<th>May</th>
<th>June</th>
<th>July</th>
<th>August</th>
<th>September</th>
<th>October</th>
<th>November</th>
<th>December</th>
<th>Year to Date</th>
<th>Prior Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>22.70%</td>
<td>22.5%</td>
<td>22.62%</td>
<td>24.11%</td>
<td>24.11%</td>
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<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Total</th>
<th>January</th>
<th>February</th>
<th>March</th>
<th>April</th>
<th>May</th>
<th>June</th>
<th>July</th>
<th>August</th>
<th>September</th>
<th>October</th>
<th>November</th>
<th>December</th>
<th>Year to Date</th>
<th>Prior Year</th>
</tr>
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<tbody>
<tr>
<td>0.00%</td>
<td>0.00%</td>
<td>0.00%</td>
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</tbody>
</table>

### Monthly Financials

<table>
<thead>
<tr>
<th>Total Revenues</th>
<th>January</th>
<th>February</th>
<th>March</th>
<th>April</th>
<th>May</th>
<th>June</th>
<th>July</th>
<th>August</th>
<th>September</th>
<th>October</th>
<th>November</th>
<th>December</th>
<th>Year to Date</th>
<th>Prior Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>$(670,141)</td>
<td>$(711,625)</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Total Expenses</th>
<th>January</th>
<th>February</th>
<th>March</th>
<th>April</th>
<th>May</th>
<th>June</th>
<th>July</th>
<th>August</th>
<th>September</th>
<th>October</th>
<th>November</th>
<th>December</th>
<th>Year to Date</th>
<th>Prior Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1,098,261</td>
<td>$1,766,121</td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Tax Levy Used/(Returned)</th>
<th>January</th>
<th>February</th>
<th>March</th>
<th>April</th>
<th>May</th>
<th>June</th>
<th>July</th>
<th>August</th>
<th>September</th>
<th>October</th>
<th>November</th>
<th>December</th>
<th>Year to Date</th>
<th>Prior Year</th>
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<tbody>
<tr>
<td>$428,120</td>
<td>$84,459</td>
<td>-</td>
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<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

### Star Rating - Overall
- 5 Star
- Health Insp.: 4 Star
- Staffing: 4 Star
- Quality Measures: 5 Star

### Open Senior Management Positions
- Date Vacant: 2/28/2020
- Position Filled: 4/27/2020
- Director of Nursing
### Lakeland Health Care Center - Walworth County

Total Aging by Pay Source

#### February 2020

<table>
<thead>
<tr>
<th>Pay Source</th>
<th>Total</th>
<th>Current</th>
<th>30 Days</th>
<th>60 Days</th>
<th>90 Days +</th>
</tr>
</thead>
<tbody>
<tr>
<td>Private Pay</td>
<td>1,262,913.83</td>
<td>55,855.05</td>
<td>46,855.99</td>
<td>28,042.22</td>
<td>1,132,160.57</td>
</tr>
<tr>
<td>Hospice</td>
<td>203,754.40</td>
<td>34,176.23</td>
<td>45,612.12</td>
<td>(3,986.62)</td>
<td>127,952.67</td>
</tr>
<tr>
<td>Medicare</td>
<td>118,974.78</td>
<td>95,533.93</td>
<td>8,745.98</td>
<td>7,350.97</td>
<td>7,343.90</td>
</tr>
<tr>
<td>Medicaid</td>
<td>412,830.71</td>
<td>198,914.35</td>
<td>18,506.57</td>
<td>14,504.42</td>
<td>180,905.37</td>
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<tr>
<td>Med Adv</td>
<td>217,091.60</td>
<td>70,711.95</td>
<td>73,696.45</td>
<td>817.35</td>
<td>71,865.95</td>
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<tr>
<td>Community Care</td>
<td>9,921.38</td>
<td>(338.76)</td>
<td>5,588.68</td>
<td>349.99</td>
<td>4,321.47</td>
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<tr>
<td>Total</td>
<td>2,225,486.70</td>
<td>454,852.75</td>
<td>199,005.79</td>
<td>47,078.23</td>
<td>1,524,549.93</td>
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<tr>
<td>Percent of Total</td>
<td>100.00%</td>
<td>20.44%</td>
<td>8.94%</td>
<td>2.12%</td>
<td>68.50%</td>
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#### January 2020

<table>
<thead>
<tr>
<th>Pay Source</th>
<th>Total</th>
<th>Current</th>
<th>30 Days</th>
<th>60 Days</th>
<th>90 Days +</th>
</tr>
</thead>
<tbody>
<tr>
<td>Private Pay</td>
<td>1,238,655.06</td>
<td>62,030.90</td>
<td>34,435.27</td>
<td>34,755.50</td>
<td>1,107,433.39</td>
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<tr>
<td>Hospice</td>
<td>182,932.12</td>
<td>42,547.36</td>
<td>8,417.51</td>
<td>11,127.00</td>
<td>120,840.25</td>
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<td>Medicare</td>
<td>93,819.86</td>
<td>69,997.12</td>
<td>7,111.77</td>
<td>522.64</td>
<td>16,188.33</td>
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<tr>
<td>Medicaid</td>
<td>384,937.36</td>
<td>215,396.72</td>
<td>(23,161.58)</td>
<td>22,176.99</td>
<td>170,525.23</td>
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<tr>
<td>Med Adv</td>
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#### December 2019

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<tr>
<th>Pay Source</th>
<th>Total</th>
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<th>30 Days</th>
<th>60 Days</th>
<th>90 Days +</th>
</tr>
</thead>
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<td>23,936.06</td>
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<td>40,969.94</td>
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<tr>
<td>Medicare</td>
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<td>50,870.27</td>
<td>3,485.03</td>
<td>2,908.14</td>
<td>17,091.10</td>
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<tr>
<td>Medicaid</td>
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<td>68,910.98</td>
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<td>15.47%</td>
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#### November 2019

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<th>60 Days</th>
<th>90 Days +</th>
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<tbody>
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<td>130,901.46</td>
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<td>86,838.10</td>
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<td>8,302.01</td>
<td>(596.90)</td>
<td>8,071.16</td>
<td>827.75</td>
<td>-</td>
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<td>Total</td>
<td>2,268,138.56</td>
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<tr>
<td>Percent of Total</td>
<td>100.00%</td>
<td>19.23%</td>
<td>12.30%</td>
<td>2.79%</td>
<td>65.68%</td>
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</table>

#### October 2019

<table>
<thead>
<tr>
<th>Pay Source</th>
<th>Total</th>
<th>Current</th>
<th>30 Days</th>
<th>60 Days</th>
<th>90 Days +</th>
</tr>
</thead>
<tbody>
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<td>1,213,331.12</td>
<td>78,391.70</td>
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<td>189,777.15</td>
<td>40,693.60</td>
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<tr>
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<td>91,020.84</td>
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<td>13,409.55</td>
<td>7,615.30</td>
<td>5,794.25</td>
<td>-</td>
<td>-</td>
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<tr>
<td>Total</td>
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<td>483,865.20</td>
<td>104,193.79</td>
<td>58,224.11</td>
<td>1,489,420.46</td>
</tr>
<tr>
<td>Percent of Total</td>
<td>100.00%</td>
<td>22.66%</td>
<td>4.88%</td>
<td>2.73%</td>
<td>69.74%</td>
</tr>
</tbody>
</table>
Lakeland Health Care Center - Walworth County

Total Aging by Pay Source

<table>
<thead>
<tr>
<th>Month</th>
<th>Total Aging</th>
<th>Inc/(Dec) Prior Month</th>
<th>Write-Offs Included</th>
</tr>
</thead>
<tbody>
<tr>
<td>February 2019</td>
<td>$2,265,127.56</td>
<td>$(8,104.18) $</td>
<td>- $</td>
</tr>
<tr>
<td>March 2019</td>
<td>$2,344,305.20</td>
<td>$79,177.64 $</td>
<td>- $</td>
</tr>
<tr>
<td>April 2019</td>
<td>$2,317,520.07</td>
<td>$(26,785.13) $</td>
<td>- $</td>
</tr>
<tr>
<td>May 2019</td>
<td>$2,240,860.37</td>
<td>$(76,659.70) $</td>
<td>$(61,832.64) $</td>
</tr>
<tr>
<td>June 2019</td>
<td>$2,442,523.40</td>
<td>$201,663.03 $</td>
<td>- $</td>
</tr>
<tr>
<td>July 2019</td>
<td>$2,357,632.61</td>
<td>$(84,890.79) $</td>
<td>$(12,630.07) $</td>
</tr>
<tr>
<td>August 2019</td>
<td>$2,212,482.59</td>
<td>$(145,150.02) $</td>
<td>- $</td>
</tr>
<tr>
<td>September 2019</td>
<td>$1,981,639.46</td>
<td>$(230,843.13) $</td>
<td>- $</td>
</tr>
<tr>
<td>October 2019</td>
<td>$2,135,703.56</td>
<td>$154,064.10 $</td>
<td>- $</td>
</tr>
<tr>
<td>November 2019</td>
<td>$2,268,138.60</td>
<td>$132,435.04 $</td>
<td>- $</td>
</tr>
<tr>
<td>December 2019</td>
<td>$2,026,530.33</td>
<td>$(241,608.27) $</td>
<td>$(131,677.21) $</td>
</tr>
<tr>
<td>January 2020</td>
<td>$2,100,248.08</td>
<td>$73,717.75 $</td>
<td>- $</td>
</tr>
<tr>
<td>February 2020</td>
<td>$2,225,486.70</td>
<td>$125,238.62 $</td>
<td>- $</td>
</tr>
</tbody>
</table>

Aging Balance

![Aging Balance Graph]
## 02/20 LHCC Aging Balances

**Total 02/20 Aging Balance**  $2,225,486.70  
**Net Change From Prior Month**  $125,238.62

### Residents with Balances $30,000 or more:

<table>
<thead>
<tr>
<th>#</th>
<th>Resident Name</th>
<th>Total Outstanding Balance</th>
<th>% of Total</th>
<th>Change from Prior Month</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Resident 1</td>
<td>$35,827.64</td>
<td>1.61%</td>
<td>$(307.56)</td>
</tr>
<tr>
<td>2</td>
<td>Resident 44</td>
<td>$73,539.68</td>
<td>3.30%</td>
<td>$8,618.00</td>
</tr>
<tr>
<td>3</td>
<td>Resident 217</td>
<td>$36,195.96</td>
<td>1.63%</td>
<td>$9,056.21</td>
</tr>
<tr>
<td>4</td>
<td>Resident M</td>
<td>$38,309.62</td>
<td>1.72%</td>
<td>$(1,230.96)</td>
</tr>
<tr>
<td>5</td>
<td>Resident 2</td>
<td>$33,885.83</td>
<td>1.52%</td>
<td>$(149.42)</td>
</tr>
<tr>
<td>6</td>
<td>Resident F</td>
<td>$390,224.40</td>
<td>17.53%</td>
<td>$(1,990.39)</td>
</tr>
<tr>
<td>7</td>
<td>Resident 92</td>
<td>$46,107.98</td>
<td>2.07%</td>
<td>$445.26</td>
</tr>
<tr>
<td>8</td>
<td>Resident I</td>
<td>$129,207.84</td>
<td>5.81%</td>
<td>$(500.00)</td>
</tr>
<tr>
<td>9</td>
<td>Resident 216</td>
<td>$31,241.61</td>
<td>1.40%</td>
<td>$2,263.18</td>
</tr>
<tr>
<td>10</td>
<td>Resident K</td>
<td>$56,651.11</td>
<td>2.55%</td>
<td>$47.41</td>
</tr>
<tr>
<td>11</td>
<td>Resident L</td>
<td>$87,300.71</td>
<td>3.92%</td>
<td>$</td>
</tr>
<tr>
<td>12</td>
<td>Resident 84</td>
<td>$30,503.39</td>
<td>1.37%</td>
<td>$4,343.72</td>
</tr>
<tr>
<td>13</td>
<td>Resident J</td>
<td>$157,476.91</td>
<td>7.08%</td>
<td>$</td>
</tr>
</tbody>
</table>

**Aging Balance $30K or more**  $1,146,472.68  
**51.52%**  $20,595.45

**Aging Balance $29k or less**  $1,079,014.02  
**48.48%**

*Amount attributable to Aging balances $29,999 or less*

**Total Outstanding Balance**

| 3 Residents owing > $100,000 | $676,909.15 | 30.42% |

**No Longer Appearing Above:**

- Resident 187  $25,835.40

**$20,000-$29,999 Outstanding:**

- Resident 218  $23,446.90
- Resident 181  $20,049.52
- Resident 52   $21,259.55
- Resident 219  $23,577.52
- Resident 220  $24,512.26
- Resident 50   $29,491.80
- Resident 80   $20,004.33
Memorandum

To: Lakeland Health Care Center Board of Trustees

Cc: Mark W. Luberda, County Administrator

From: Elizabeth Aldred, Superintendent of County Institutions
       Health & Human Services Director

Date: April 21, 2020

RE: COVID update

Lakeland Health Care Center has taken a variety of steps to ensure the safety and wellbeing of its residents. To date there have been no positive cases of Coronavirus within the facility.

The facility has prided itself on exhibiting a high level of vigilance while addressing the variety of restrictions placed upon it by the State Department of Health Services and the Federal Government.

Measures that have been put in place include:

- Restricted access to non-essential visitors and staff. The only exception is at end of life. Families are instructed on proper hand hygiene, use of masks and are restricted to one visitor once family has had a chance to say their goodbyes.
- All staff are checked daily for temperature and pulse ox levels to make sure that they do not have any underlying symptoms.
- Masks are worn by all staff at all times within the facility.
- All residents are monitored for symptoms on a daily basis.
- Residents that leave the building for medical appointments are placed in isolation for seven days. They are monitored for symptoms during that time.
- Residents on isolation restrictions have isolation carts outside of their rooms to assure that proper personal protective equipment (PPE) is available for staff entering the resident rooms.
- All group activities have been eliminated.
- All group meals have been eliminated.
- Staff are being assigned to one unit and not allowed to float between units.
- Residents are restricted from common spaces and are restricted from other units within the facility.
- Increased sanitation steps have been implemented.
- We have restricted staff to only be able to work at our facility. New hires that work at another facility will be scheduled to start once this restriction has been removed.
As the county nursing home we continue to take admissions of non-COVID related residents. Most non-essential or elective surgeries have been cancelled for the duration of the safer at home order. While we have seen a decrease in our resident admissions it is the responsibility of the county to continue to admit residents to create capacity within our local hospitals for those with more serious conditions. We will be working with insurance carriers for which we are currently out of network to offer single case agreements for resident care. This will increase resident access when other facilities are unable to take new admissions.

We continue to plan for the worst case scenarios. We have created a plan for 60% staff outage. We have started hiring for pool staff to help out during the pandemic, accessing an array of qualified nursing staff who find themselves under-employed at this time due to clinic and school closings. We have also begun developing a Certified Nursing Assistant training course to train personnel who have not yet completed the certification course. The state has waived many of the training requirements for qualified C.N.A staff. Our plan would be to pair a newly trained staff with a current LHCC employee to assist in providing cares in a safe manner.

The facility has taken steps to plan for an outbreak within the facility. A negative pressure area has been established on our vacant wing. There are two isolation rooms within the occupied wings where a resident could be placed if they were confirmed positive. If there are three or more residents confirmed positive we would open up this wing to assure that we maintained a safe environment for all residents. Food services would be able to be supplied on the unit in disposable trays to eliminate the need to other staff to enter the specialty treatment wing. I have included below a picture of the temporary barrier for this wing. We have worked with the Department of Public Works to create this alternative environment for our residents if needed.
In addition to these precautions we have continued to look at ways to keep residents and families engaged. Our recreation therapy staff continue to set up video chats for residents and families. They have created spirit weeks to keep everyone’s spirits up. This week was a rainbow of color. Many of our families and community members continue to drop off gifts for our residents. These items are all placed in isolation for 24 hours and are thoroughly disinfected before being distributed.

We have been posting weekly updates on our website for our families so that they are able to stay connected and have the most up-to-date information on facility restrictions. Additionally, a letter has been sent to families who are less likely to be able to access information on our website so that they can also be informed.

Lastly, we have begun planning for community recovery. As our community eventually recovers and restrictions are lifted we will benefit from the increased staff training that is being developed and provided as well as the access to increased pool staff to cover vacancies and other time off. These changes will help us maintain our staffing levels as we increase our census.