HFS 132.31 RIGHTS OF RESIDENTS.

(1) RESIDENTS’ RIGHTS. Every resident shall, except as provided in sub. (3), have the right to:

(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. HFS 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;

   ...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.

...(j) Transfer or discharge. 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 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.

...(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. HFS 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.

HFS 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 (6c) (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., no resident may be involuntarily transferred or discharged unless an alternative placement is arranged for the resident pursuant to s. HFS 132.31 (1) (j).

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:
   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 also contain the name, address and telephone number of the board on aging and long−term care. For a resident with developmental disability or mental illness, the notice shall contain the mailing 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. HFS 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.

...(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 sub. (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. HFS 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 of 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.

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; renum. (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) and (6), Register, June, 1991, No. 426, eff. 7−1−91.

HFS 132.60 Resident care

(3) NOTIFICATION OF CHANGES IN CONDITION OR STATUS OF RESIDENT.

...(b) Changes in status. A resident’s guardian and any other person designated in writing by the resident or guardian 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.