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. HFS 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. 55.06, 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. 55.06 (9) (c), 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. 55.06 (9) (b), 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. 55.06 (9) (b), 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), r. and recr. (3), Register, January, 1987, No. 373, eff. 2−1−87.

Subchapter IV — Management

HFS 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.

(3) ABSENCE OF ADMINISTRATOR. A person present in and competent to supervise the facility shall be designated to be in charge whenever there is not an administrator in the facility, and shall be identified to all staff.

(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.

HFS 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) QUALIFICATIONS AND RESTRICTIONS. No person under 16 years of age shall be employed to provide direct care to residents. An employee less than 18 years of age who provides direct care to residents must work under the direct supervision of a nurse.

(3) PHYSICAL HEALTH CERTIFICATIONS. (a) *New employees.* Every employee shall be certified in writing by a physician, physician 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 in the facility, in the community or as a result of travel or other exposure.

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

(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), r. and recr. (4) Register December 2003 No. 576, eff. 1−1−04; **CR 04−053: am. (3) and (4) Register October 2004 No. 586, eff. 11−1−04.**

HFS 132.43 Abuse of residents. (1) CONSIDERATE CARE AND TREATMENT. Residents shall receive considerate care and treatment at all times consistent with s. 50.09 (1) (e), Stats.

(2) RESIDENT ABUSE. No one may abuse a resident.

History: Cr. Register, July, 1982, No. 319, eff. 8−1−82.

HFS 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. HFS 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 health care, and special programming for developmentally disabled residents if the facility admits developmentally disabled persons. These programs shall be conducted as often as is necessary to enable staff to acquire the skills and techniques necessary to implement the individual program plans for each resident under their care.

(b) *Dietary inservice.* Educational programs shall be held periodically for dietary staff, and shall include instruction in the proper handling of food, personal hygiene and grooming, and nutrition and modified diet patterns served by the facility.

(3) MEDICATION ADMINISTRATION. Before persons, other than nurses and practitioners, are authorized under s. HFS 132.60 (5) (d) 1. to administer medications, they shall be trained in a course approved by the department.

Note: For recordkeeping requirements for all orientation and inservice programs, see s. HFS 132.45 (6) (f).

History: Cr. Register, July, 1982, No. 319, eff. 8−1−82; r. and recr. (2) (a) and am. (4), Register, January, 1987, No. 373, eff. 2−1−87; **CR 04−053: renum. (1) (c) to be (1) (b) Register October 2004 No. 586, eff. 11−1−04.**

HFS 132.45 Records. (1) GENERAL. The administrator or administrator's designee shall provide the department with any information required to document compliance with ch. HFS 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. (a) *Availability of records.* Medical records of current residents shall be stored in the facility and shall be easily accessible, at all times, to persons authorized to provide care and treatment. Medical records of both current and past residents shall be readily available to persons designated by statute or authorized by the resident to obtain the release of the medical records.

(b) *Organization.* The facility shall maintain a systematically organized records system appropriate to the nature and size of the facility for the collection and release of resident information.

(c) *Unit record.* A unit record shall be maintained for each resident and day care client.

(d) *Indexes.* 1. A master resident index shall be maintained.

2. A disease index shall be maintained which indexes medical records at least by final diagnosis.

(e) *Maintenance.* The facility shall safeguard medical records against loss, destruction, or unauthorized use, and shall provide adequate space and equipment to efficiently review, index, file, and promptly retrieve the medical records.

(f) *Retention and destruction.* 1. The medical record shall be completed and stored within 60 days following a resident's discharge or death.

2. 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. All other records required by this chapter shall be retained for a period of at least 2 years.

3. Medical records no longer required to be retained under subd. 2. may be destroyed, provided:

a. The confidentiality of the information is maintained; and

b. The facility permanently retains at least identification of the resident, final diagnosis, physician, and dates of admission and discharge. This may be achieved by way of the indexes required by par. (d).

4. 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.

5. 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 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. HFS 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. HFS 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. HFS 132.52 (2) (a);

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

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

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

e. Limitations on activities;

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

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

3. Physician progress notes following each visit as required by s. HFS 132.61 (2) (b) 6.;

4. Annual physical examination, if required; and

5. Alternate visit schedule, and justification for such alternate visits as described in s. HFS 132.61 (2) (b).

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

2. Initial care plan as required by s. HFS 132.52 (4), and the care plan required by s. HFS 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. HFS 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 as required by s. HFS 132.60 (6) (g);

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. HFS 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:

1. A dietitian, if required by s. HFS 132.63 (2) (b);

2. A registered nurse, if required by s. HFS 132.62 (2); and

3. 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. HFS 132.53 (4);

(h) *Funds and property statement.* The statement prepared upon a resident's discharge or transfer from the facility that accounts for all funds and property held by the facility for the resident, as required under s. HFS 132.31 (1) (c) 3.; and

(i) *Court orders and consent forms.* Copies of court orders or other documents, if any, authorizing another person to speak or act on behalf of the resident.

History: Cr. Register, July, 1982, No. 319, eff. 8−1−82; am. (1) (3) (c) (5) (intro.), (b) 1. intro. and e., 2. a. and d., 3., (c) 1. and 2., (d) 1., (e), (f) 1. and (g), (6) (g), renum. (4) (a) to (e), (5) (e) and (6) (h) to be (4) (c) to (g), (5) (L) 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: r. and recr. (3) and (5) (d), am. (4) (g) 2. and (5) (e), r. (5) (g) Register October 2004 No. 586, eff. 11−1−04.**

HFS 132.46 Quality assessment and assurance.

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

(a) The director of nursing services.

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

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

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

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

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

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

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

Subchapter V — Admissions, Retentions and Removals

HFS 132.51 Limitations on admissions and programs.

(1) 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.