



Date: March 16, 2015

To: [Nursing Homes](#)

From: Juan Flores, Director  
Bureau of Nursing Home Resident Care

Via: Otis Woods, Administrator

DQA 15-002  
Replaces DQA Memo DQA 07-016

### **Section DHS 132.84 (2) (e) Sharing of toilet facilities between sexes**

This memo replaces DQA Memo 07-016 issued September 14, 2007, and repeals a formerly approved statewide waiver of Wis. Admin Code s. DHS 132.84 (2) (e) regarding the sharing of toilet facilities between sexes. Wis. Admin. Code s. DHS 132.84 (2) (e) states: In period A and B facilities separate toilet and bath facilities shall be provided for male and female residents. Period A and B facilities include certain facilities approved prior to December 1, 1974. *See Wis. Admin. Code s. DHS 132.81 (2) (b) and (c).*

Wis. Admin. Code s. DHS 132.21 allows for the granting of a variance requested by a nursing home if the variance does not adversely affect the health, safety or welfare of any resident and if either strict enforcement of the requirement would result in unreasonable hardship on the facility or on a resident, or an alternative to a rule is in the interests of better care or management.

If a nursing home wishes to request a variance of the requirement identified in Wis. Admin. Code s. DHS 132.84 (2) (e), please submit the request to [DHSWebmailDQA@dhs.wisconsin.gov](mailto:DHSWebmailDQA@dhs.wisconsin.gov) and include the following:

- The rule from which the variance is requested;
- The time period for which the variance is requested;
- The specific alternative action which the facility proposes that includes:
  - Privacy locks installed on the toilet room doors with a quick release mechanism which allows staff to open the doors from the resident room in an emergency.
  - The written consent of all residents involved in sharing the toilet facilities with the opposite sex, signed by the residents or their legal representatives, and filed in the residents' records. To comply with HIPAA standards for privacy the facility should not identify the names of the other residents on the resident's consent form.
- The reasons for the request; and
- Justification that the variance will not adversely affect the health, safety or welfare of any resident and that strict enforcement of the requirement would result in unreasonable hardship on the facility or on a resident; or that the proposed alternative is in the interests of better care or management.

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DQA will review and respond to these requests as quickly as possible.

**Questions**

If you have questions about this change, please contact the regional field operations director assigned to your facility. Contact information for the regional offices can be found at the following:

<https://www.dhs.wisconsin.gov/dqa/bnhrc-regionalmap>.