

1971 Senate Bill 355

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CHAPTER 161, Laws of 1971

AN ACT to renumber 146.30 (3); to amend 146.30 (title), (4m), (9), (11) and (13); to repeal and recreate 146.30 (10) and (12); and to create 146.30 (3) (b) and (c) of the statutes, relating to the licensing and regulation of nursing homes, providing injunctive relief against and penalties for violations of state nursing home regulations.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 146.30 (title), (4m), (9), (11) and (13) of the statutes are amended to read:

146.30 (title) LICENSING AND REGULATION OF NURSING HOMES.

(4m) No nursing home within the state may be allowed to operate except under the supervision of an administrator licensed under ch. 456 ~~or for a period of time, not exceeding 90 days, as determined by the nursing home administrator examining board by the nursing home administrators examining board.~~

(9) PENALTY. It shall be unlawful for any person, acting jointly or severally with any other person, to conduct, maintain, operate, or permit to be maintained or operated, or to participate in the conducting, maintenance or operating of a nursing home, unless ~~within 60 days after August 12, 1951, it is registered with the department, or unless after June 30, 1952,~~ it is licensed as a nursing home by the department. Any person who ~~shall violate~~ violates this section shall be fined not more than \$100 for the first offense and not more than \$200 for each subsequent offense, and each day of continuing violation after the first conviction shall be considered a separate offense.

(11) A provisional license if approved by the department may be issued to any nursing home, the facilities of which are in use or needed for patients, but which is temporarily unable to conform to all the rules established under this section. A provisional license may not be issued for more than one year ~~;- no provisional license shall be in effect prior to June 30, 1952.~~

(13) (title) NURSING HOME LICENSE ACT. This section shall be known and may be cited as the "Nursing Home Licensing and ~~Accrediting Act~~".

SECTION 1g. 146.30 (3) of the statutes is renumbered 146.30 (3)(a).

SECTION 1r. 146.30 (3) (b) and (c) of the statutes are created to read:

146.30 (3) (b) With approval of the department, the county board of any county having a population of 500,000 or more may, in an effort to assure compliance with this section, establish a program for the inspection of nursing homes within its jurisdiction. If a county agency conducting inspections under this paragraph finds that a nursing home fails to comply with this section or rules established hereunder, it shall promptly notify the department. If

it deems such action necessary after medical, nursing and social services evaluation by its inspection personnel, the county agency or its medical officer in charge of nursing home care may, after notifying the department, withdraw any nursing home patient receiving county support for care in a home failing to comply with this section or rules established hereunder.

(c) If the department, after considering the recommendation of a welfare director of any county or after evaluating information provided by inspection personnel, determines that an emergency exists which places the patient's health, safety or welfare in jeopardy, the department may immediately withdraw or may authorize the county to withdraw any nursing home patient who receives county or state support for care in a home which fails to comply with the standards established by this section or by rules promulgated hereunder.

SECTION 2. 146.30 (10) and (12) of the statutes are repealed and recreated to read:

146.30 (10) RIGHT OF INJUNCTION. (a) Licensed nursing homes. Notwithstanding the existence or pursuit of any other remedy, the department may, upon the advice of the attorney general, who shall represent the department in all proceedings, 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 nursing home to restrain and enjoin the repeated violation of any of the provisions of this section or administrative rules adopted by the department under this section where the violation affects the health, safety or welfare of the patients.

(b) Unlicensed nursing homes. Notwithstanding the existence or pursuit of any other remedy, the department may, upon the advice of the attorney general, who shall represent the department in all proceedings, 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, conduct, management or operation of a nursing home without a license or without being registered.

(c) Enforcement by counties maintaining inspection programs. The county board of any county conducting inspections under sub. (3) (b) may, upon notifying the department that a nursing home is in violation of this section or the rules established hereunder, authorize the district attorney to maintain an action in the name of the state in circuit court for injunction or other process against such nursing home, its owner, operator, administrator or representative, to restrain and enjoin repeated violations where such violations affect the health, safety or welfare of the patients.

(12) FORFEITURE. Any owner, operator, administrator or officers, directors, agents, employes or other persons acting or claiming to act in behalf of the owner of a nursing home who violates any provision of this section or any rule adopted by the department under this section shall forfeit not less than \$10 nor more than \$1,000 for each such offense. Each day of violation shall constitute a separate offense under this section.