

2007 DRAFTING REQUEST

Bill

Received: **11/08/2006**

Received By: **dkennedy**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Milioto**

This file may be shown to any legislator: **NO**

Drafter: **dkennedy**

May Contact:

Add. Drafters:

Subject: **Health - capital expenditure**

Extra Copies:

Submit via email: **NO**

Pre Topic:

DOA:.....Milioto, BB0148 -

Topic:

Nursing home beds, CIP II payment, MA labor regions

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	dkennedy 11/09/2006	kfollett 11/09/2006		_____			S&L
/1			nmatzke 11/09/2006	_____	sbasford 11/09/2006		S&L
/2	dkennedy 01/18/2007	kfollett 01/19/2007	rschluet 01/19/2007	_____	cduerst 01/19/2007		S&L
/3	dkennedy 01/31/2007	kfollett 01/31/2007	pgreensl 01/31/2007	_____	mbarman 01/31/2007		

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13/CF
1/31
PR
PR
<END>

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/?	dkennedy 11/09/2006	kfollett 11/09/2006		_____			S&L
/1	dkennedy	12kif 1/28	nmatzke 11/09/2006	_____	sbasford 11/09/2006		S&L

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12kif
1/28
11/9/06
END

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/?	dkennedy	11/15/f 11/18	nwn 10/9	nwn/pg 11/9			

FE Sent For:

<END>

2007-09 Budget Bill Statutory Language Drafting Request

- Topic: Nursing Home Bed Transfers
- Tracking Code: BB0148
- SBO team: Health
- SBO analyst: Steve Milioto
 - Phone: 266-8593
 - Email: Steve.Milioto@Wisconsin.gov
- Agency acronym: DHFS
- Agency number: 435

Revise s. 150.345 of the statutes to allow a nursing home to transfer a licensed bed to another nursing home anywhere in the state.

Attached is a map displaying the nursing home "areas" as determined by the department.
(See s. 150.345 (1) (a))

~~This draft should not be shared with the department upon completion.~~

Priority: High

11/9/06 Revised instructions from Steve Miliato:
Amend 150.345 (1) (a) to allow transfer
to any adjoining area.

Each applicant shall provide any required additional information within 30 days following the closing date for accepting applications specified in sub. (3). The department may not accept for review any incomplete application if it fails to receive the additional information within this 30-day period until it issues another public notice soliciting applications under sub. (1). The department shall declare the application complete on the date on which the department receives all the required information.

(4) The department shall issue a class 2 notice under ch. 985 within 20 days after the date on which it declares all applications complete under sub. (3m), listing all applicants and describing their applications.

History: 1983 a. 27; 1987 a. 27 ss. 1868 to 1871, 1874; 1987 a. 399; 1993 a. 290.

150.34 Other applications. (1) Any person intending to engage in activities subject to this subchapter not specified under s. 150.33 shall notify the department in writing of this intent at least 30 days prior to submitting an application for review. An application expires unless the department declares the application complete under sub. (2) within 365 days after the date the department receives notice of the applicant's intent to engage in the activity. The department shall provide forms for submitting applications under this section.

(2) The department shall review each application it receives for completeness. If the department finds that the application is incomplete, it shall notify the applicant of the information required within 10 working days after receiving the application. The department shall declare the application complete on the date on which the department receives all the required information.

(3) The department shall issue a class 2 notice under ch. 985 on or before the 20th day of the month following the month in which it declares an application complete under sub. (2), listing the applicant and describing the applicant's proposed activity.

History: 1987 a. 27, 399; 1989 a. 56.

150.345 Nursing home bed transfers. (1) Notwithstanding ss. 150.33 and 150.34, a nursing home may transfer a licensed bed to another nursing home, if all of the following apply:

(a) The receiving nursing home is within the same area for allocation of nursing home beds, as determined by the department, as is the transferring nursing home, or is in a county adjoining that area.

(b) The transferring nursing home and the receiving nursing home are owned by corporations that are owned by the same person.

(c) The transferring and receiving nursing homes notify the department of the proposed transfer within 30 days before the transfer occurs.

(d) The department reviews and approves the transfer.

(2) Upon receiving the notification specified in sub. (1) (c), the department shall adjust the allocation of licensed beds under s. 150.31 for each nursing home in accordance with the transfer that was made.

History: 2001 a. 16.

150.35 Review procedures. (2) The department shall hold a public meeting upon the request of an affected party to review applications under s. 150.33 or 150.34, at which all affected parties may present testimony. The department shall keep minutes or other record of testimony presented at the public meeting and shall, based on the testimony, consider the record in determining whether the applicant has met the review criteria under s. 150.39.

(3) Except as provided under sub. (3m), the department shall issue an initial finding to approve or reject the application within 75 days after the date it publishes its notice under s. 150.33 (4) or 150.34 (3), unless all applicants consent to an extension of this period. The department may extend by 60 days the review cycle of all applications being concurrently reviewed if it finds that completing the reviews within 75 days after the date it publishes its notice under s. 150.33 (4) or 150.34 (3) is not practicable due

to the volume of applications received. The department shall base its initial finding on a comparative analysis of applications, relying on the criteria specified in s. 150.39. The applicant has the burden of proving, by a preponderance of the evidence, that each criterion specified in s. 150.39 has been met or does not apply to the project. The department may approve fewer additional nursing home beds than allowed by the statewide bed limit if the cost of adding those beds exceeds the medical assistance allocation for new beds projected in s. 150.31 (1) (e). Unless an adversely affected applicant makes a timely request for a public hearing under sub. (4), the department's initial finding under this subsection is its final action.

(3m) (a) The department may receive any of the following applications:

1. An application which was developed under a plan of correction, as defined in s. 50.01 (4r), previously approved by the department and which does not add beds to the current licensed bed capacity.

2. Any application involving a cost overrun submitted under s. 150.11 (3).

3. All applications for activities that are specified in s. 150.21 (3).

(b) Subsection (2) does not apply to the applications under par. (a). Within 60 days after it receives a completed application, the department shall, according to procedures it promulgates by rule, review the application and issue its initial finding. No public meeting need be held on any project submitted under this subsection.

(c) Unless an adversely affected applicant makes a timely request for a public hearing under sub. (4), the department's initial finding under this subsection is its final decision.

(4) (a) Any applicant whose project is rejected may request a public hearing to review the department's initial finding under sub. (3) or (3m), if the request is submitted in writing within 10 days after the department's decision. The department shall commence the hearing within 30 days after receiving a timely request, unless all parties consent to an extension of this period.

(b) Sections 227.42 to 227.50 do not apply to hearings under this subsection. The department shall promulgate rules to establish:

1. Procedures for scheduling hearings under this subsection.

2. Procedures for conducting hearings under this subsection, including methods of presenting arguments, cross-examination of witnesses and submission of exhibits.

3. Procedures following the completion of a hearing under this subsection, including the establishment of time limits for issuance of a decision.

4. Standards relating to ex parte communication in hearings under this subsection.

5. Procedures for reconsideration and rehearing.

(c) The department shall issue all decisions in writing.

(d) Each applicant at any hearing under this subsection has the burden of proving, by clear and convincing evidence, that the department's initial finding was contrary to the weight of the evidence on the record when considered as a whole, arbitrary and capricious or contrary to law.

History: 1983 a. 27; 1985 a. 182 s. 57; 1987 a. 27, 399; 1989 a. 173; 1993 a. 290; 1997 a. 27.

150.39 Review criteria and standards. The department shall use the following criteria in reviewing each application under this subchapter, plus any additional criteria it develops by rule. The department shall consider cost containment as its first priority in applying these criteria, and shall consider the comments of affected parties. The department may not approve any project under this subchapter unless the applicant demonstrates:

(1) The medical assistance funds appropriated are sufficient to reimburse the applicant for providing the nursing home care.



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0647/1
DAK: *lgf*

DOA:.....Milioto, BB0148 - Nursing home bed transfers

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

Do Not Gen

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

OTHER HEALTH AND HUMAN SERVICES

X *under*
Under current law, a nursing home may transfer a licensed bed to another nursing home only ~~under~~ certain conditions, including if the transferring and receiving nursing homes are within the same bed allocation area, as determined by DHFS, or if the receiving nursing home is located in a county that adjoins the bed allocation area of the transferring nursing home.

This bill changes the limitation on transferring a licensed bed from one nursing home to another to require that the receiving nursing home be in the same bed allocation area or in an adjoining area.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

2 SECTION 1. 150.345 (1) (a) of the statutes is amended to read:

1 150.345 (1) (a) The receiving nursing home is within the same area for
2 allocation of nursing home beds, as determined by the department, as is the
3 transferring nursing home, or is in ~~a county~~ [↓] an adjoining that area.

History: 2001 a. 16.

4

(END)

Kennedy, Debora

From: Milioto, Steve - DOA
Sent: Thursday, January 18, 2007 3:19 PM
To: Kennedy, Debora
Subject: FW: LRB Draft: 07-0647/1 Nursing home bed transfers
Attachments: 07-0647/1

Hi Debora --

Can you amend this draft to reduce the nursing home bed cap found in s. 150.31 from 51,795 to 42,000? We do not want to change anything else. (Feel free to retitle the draft.) Thank you! Steve

From: Natzke, Noah [mailto:Noah.Natzke@legis.wisconsin.gov]
Sent: Thursday, November 09, 2006 2:02 PM
To: Milioto, Steve - DOA
Cc: Johnston, James - DOA; Hanaman, Cathlene; Palchik, Laurie A - DOA
Subject: LRB Draft: 07-0647/1 Nursing home bed transfers

Following is the PDF version of draft 07-0647/1.



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0647/2

DAK:kjf:www

DOA:.....Milioto, BB0148 - Nursing home bed transfers

cap and bed

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

the maximum number of licensed nursing home beds is 51,795. A statewide

reduces the statewide licensed nursing home bed cap to 42,000 beds and

Don't Gen

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

OTHER HEALTH AND HUMAN SERVICES

Under current law, a nursing home may transfer a licensed bed to another nursing home only under certain conditions, including if the transferring and receiving nursing homes are within the same bed allocation area, as determined by DHFS, or if the receiving nursing home is located in a county that adjoins the bed allocation area of the transferring nursing home.

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INSERT 1-2

2

SECTION 1. 150.345 (1) (a) of the statutes is amended to read:

1 150.345 (1) (a) The receiving nursing home is within the same area for
2 allocation of nursing home beds, as determined by the department, as is the
3 transferring nursing home, or is in ~~a county~~ an adjoining ~~that~~ area.

4

(END)

**2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0647/2ins
DAK:kjf:nwn

INSERT 1-2

1 **SECTION 1.** 150.31 (1) (intro.) of the statutes is amended to read:

2 150.31 (1) (intro.) In order to enable the state to budget accurately for medical
3 assistance and to allocate fiscal resources most appropriately, the maximum number
4 of licensed nursing home beds statewide is ~~51,795~~ [✓] 42,000 and the maximum number
5 of beds statewide in facilities primarily serving the developmentally disabled is
6 3,704. The department may adjust these limits on licensed beds as provided in subs.
7 (2) to (6). The department shall also biennially recommend changes to this limit
8 based on the following criteria:

9 **History:** 1983 a. 27; 1985 a. 29; 1987 a. 27; 1989 a. 336; 1995 a. 20, 27; 1997 a. 13, 27, 36, 237, 252; 1999 a. 63; 2005 a. 22.

Kennedy, Debora

From: Johnston, James - DOA
Sent: Wednesday, January 31, 2007 2:28 PM
To: Kennedy, Debora
Cc: Milioto, Steve - DOA
Subject: Nursing Home Bed Cap and Transfers LRB# 647/2

Debora,

We have some additions for the nursing home bill, LRB # 647. The intent of the changes is to add Rock County to a statutorily specified single nursing home labor region and to allow the Secretary of the Department of Administration rather than the Joint Committee on Finance to review and approve DHFS requests to exceed the 150 individual limit for nursing home diversion slots.

I believe the following sections need to be modified:

s.49.45 (6m) (ar) 1. a. Please add Rock County to the single labor region currently consisting of Dane, Iowa, Columbia, Sauk counties.

s.46.277 (5) (g) 3. Please replace all references to Joint Committee of Finance approval process and timeframes to exceed the 150 slot limit with approval from the Secretary of the Department of Administration.

Thanks,
Jim



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0647/23

DAK:kjf:es

LPS:

PLEASE CHANGE REQUEST

DOA:.....Milioto, BB0148 - Nursing home bed cap and bed transfers

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

beds, CIP II payment, MA labor regions

Don't Gen

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

OTHER HEALTH AND HUMAN SERVICES

INSERT A

Under current law, the maximum number of licensed nursing home beds statewide is 51,795. A nursing home may transfer a licensed bed to another nursing home only under certain conditions, including if the transferring and receiving nursing homes are within the same bed allocation area, as determined by DHFS, or if the receiving nursing home is located in a county that adjoins the bed allocation area of the transferring nursing home.

This bill reduces the statewide licensed nursing home bed cap to 42,000 beds and changes the limitation on transferring a licensed bed from one nursing home to another to require that the receiving nursing home be in the same bed allocation area or in an adjoining area.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

INSERT 2-1

2

SECTION 1. 150.31 (1) (intro.) of the statutes is amended to read:

INSERT A

MEDICAL ASSISTANCE

Under current law, reimbursements to nursing homes for care provided to Medical Assistance (MA) recipients are determined under a system that considers, among other things, direct care costs, as adjusted by DHFS for regional labor cost variations. For this purpose, DHFS treats the counties of Dane, Iowa, Columbia, and Sauk as a single labor region. This bill adds Rock County to this labor region.

Currently, under the MA waiver community integration program for persons relocated from, or meeting requirements of, nursing homes (commonly known as CIP II), DHFS provides enhanced MA reimbursement to up to 150 persons who are diverted from imminent entry into nursing homes. Approval of enhanced reimbursement for more than 150 persons must, however, be made by JCF under a passive review process. This bill eliminates approval by JCF of enhanced CIP II reimbursement for persons in excess of 150 persons and, instead, requires approval for this enhanced reimbursement from the secretary of administration.

INSERT 1-2

1 **SECTION 1.** 46.277 (5) (g) 3. of the statutes is amended to read:

2 46.277 (5) (g) 3. If it is likely that the number of individuals for whom an
3 enhanced reimbursement for services is provided under subd. 1. and who are
4 diverted from imminent entry into nursing homes will exceed 150, the department
5 may submit a request to the ~~joint committee on finance~~ secretary of administration
6 for approval to provide enhanced reimbursement for services provided under subd.
7 1. for diversion from imminent entry into nursing homes for a number of individuals
8 in excess of 150. ~~Notwithstanding s. 13.101 (3) (a), the committee is not required to~~
9 ~~find that an emergency exists. If the cochairpersons of the committee do not notify~~
10 ~~the secretary within 14 working days after the date of the department's submittal~~
11 ~~that the committee intends to schedule a meeting to review the request, approval of~~
12 ~~the request is granted. If, within 14 working days after the date of the department's~~
13 ~~request submittal, the cochairpersons of the committee notify the secretary that the~~

1 ~~committee intends to schedule a meeting to review the request, the request may be~~
2 ~~granted only as approved by the committee.~~

History: 1983 a. 27; 1985 a. 29 ss. 896nc to 896u, 3202 (23); 1985 a. 176; 1987 a. 27, 186, 399; 1989 a. 31; 1991 a. 39; 1993 a. 16; 1995 a. 27; 1997 a. 13, 27, 114; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2005 a. 25, 355.

3 **SECTION 2. 49.45 (6m) (ar) 1. a. of the statutes is amended to read:**

4 **49.45 (6m) (ar) 1. a.** The department shall establish standards for payment of
5 allowable direct care costs under par. (am) 1. bm., for facilities that do not primarily
6 serve the developmentally disabled, that take into account direct care costs for a
7 sample of all of those facilities in this state and separate standards for payment of
8 allowable direct care costs, for facilities that primarily serve the developmentally
9 disabled, that take into account direct care costs for a sample of all of those facilities
10 in this state. The standards shall be adjusted by the department for regional labor
11 cost variations. The department shall treat as a single labor region the counties of
12 Dane, Iowa, Columbia, and Sauk, and Rock. For facilities in Douglas, Pierce, and St.
13 Croix counties, the department shall perform the adjustment by use of the wage
14 index that is used by the federal department of health and human services for
15 hospital reimbursement under 42 USC 1395 to 1395ggg.

History: 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106j, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (r); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062m, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 31 ss. 1402 to 1452g, 2909g, 2909i; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 112, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 417, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38, 57, 67, 104, 109; 2003 a. 33, 318, 321; 2005 a. 22; 2005 a. 25 ss. 1120 to 1149f, 2503 to 2510; 2005 a. 107, 165, 253, 254, 264, 301, 340, 386, 441.

16



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0647/3

DAK:kjf:pg

DOA:.....Milioto, BB0148 - Nursing home beds, CIP II payment, MA labor regions

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

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HEALTH AND HUMAN SERVICES

MEDICAL ASSISTANCE

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Currently, under the MA waiver community integration program for persons relocated from, or meeting requirements of, nursing homes (commonly known as CIP II), DHFS provides enhanced MA reimbursement to up to 150 persons who are diverted from imminent entry into nursing homes. Approval of enhanced reimbursement for more than 150 persons must, however, be made by JCF under a passive review process. This bill eliminates approval by JCF of enhanced CIP II reimbursement for persons in excess of 150 persons and, instead, requires approval for this enhanced reimbursement from the secretary of administration.

OTHER HEALTH AND HUMAN SERVICES

Under current law, the maximum number of licensed nursing home beds statewide is 51,795. A nursing home may transfer a licensed bed to another nursing

home only under certain conditions, including if the transferring and receiving nursing homes are within the same bed allocation area, as determined by DHFS, or if the receiving nursing home is located in a county that adjoins the bed allocation area of the transferring nursing home.

This bill reduces the statewide licensed nursing home bed cap to 42,000 beds and changes the limitation on transferring a licensed bed from one nursing home to another to require that the receiving nursing home be in the same bed allocation area or in an adjoining area.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 46.277 (5) (g) 3. of the statutes is amended to read:

2 46.277 (5) (g) 3. If it is likely that the number of individuals for whom an
3 enhanced reimbursement for services is provided under subd. 1. and who are
4 diverted from imminent entry into nursing homes will exceed 150, the department
5 may submit a request to the ~~joint committee on finance~~ secretary of administration
6 for approval to provide enhanced reimbursement for services provided under subd.
7 1. for diversion from imminent entry into nursing homes for a number of individuals
8 in excess of 150. ~~Notwithstanding s. 13.101 (3) (a), the committee is not required to~~
9 ~~find that an emergency exists. If the cochairpersons of the committee do not notify~~
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11 ~~that the committee intends to schedule a meeting to review the request, approval of~~
12 ~~the request is granted. If, within 14 working days after the date of the department's~~
13 ~~request submittal, the cochairpersons of the committee notify the secretary that the~~
14 ~~committee intends to schedule a meeting to review the request, the request may be~~
15 ~~granted only as approved by the committee.~~

16 **SECTION 2.** 49.45 (6m) (ar) 1. a. of the statutes is amended to read:

