

**2009 DRAFTING REQUEST**

**Assembly Amendment (AA-AB(LRBx4286/1))**

Received: 04/09/2010

Received By: rryan

Wanted: As time permits

Companion to LRB:

For: Jennifer Shilling (608) 266-5780

By/Representing: Tony Palese

May Contact:

Drafter: rryan

Subject: Health - medical assistance

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Rep.Shilling@legis.wisconsin.gov

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

commission to operate nursing home

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**Instructions:**

See attached

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**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>
/P1	rryan 04/09/2010	kfollett 04/09/2010	jfrantze 04/09/2010	_____	cduerst 04/09/2010	cduerst 04/09/2010	
	rryan 04/14/2010	kfollett 04/14/2010		_____	cduerst 04/09/2010		
/1			jfrantze 04/14/2010	_____	mbarman 04/14/2010	mbarman 04/14/2010	

FE Sent For:

<END>

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/P1	rryan 04/09/2010	kfollett 04/09/2010 1/1/10 /P14	jfrantze 04/09/2010 Jb	_____ _____ 4/11/10	cduerst 04/09/2010 cduerst 04/09/2010	<del>cduerst 04/09/2010</del> NOT JACKETED - MISTAKE	

FE Sent For:

<END>

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/P1	rryan	19/5f 4/9	6	4/9			

FE Sent For:

<END>

## Ryan, Robin

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**From:** Palese, Anthony  
**Sent:** Friday, April 09, 2010 10:04 AM  
**To:** Ryan, Robin  
**Subject:** FW: Multi-County Collaboration

Hi Robin,

I was hoping you could take a look at this email from DHS and let me know if this is something that we will have to draft an amendment for.

Thanks,

Tony Palese  
Legislative Aide  
Office of Rep. Jennifer Shilling

State Capitol, Room 320 East  
PO Box 8953, Madison, WI 53708  
(608) 266-5780 voice  
(888) 534-0095 toll free  
(608) 282-3695 fax

-----Original Message-----

**From:** Kahn, Carrie P - DHS [mailto:Carrie.Kahn@dhs.wisconsin.gov]  
**Sent:** Thursday, April 08, 2010 5:08 PM  
**To:** Palese, Anthony  
**Cc:** Welsh, Diane M - DHS; Gebhart, Neil R - DHS; Bove, Fredi-Ellen E - DHS; Currans-Sheehan, Rachel H - DHS  
**Subject:** Multi-County Collaboration

Tony,

As we discussed on the phone, below is an issue brought to WCA by our legal counsel when the P draft was shared. This issue was not addressed in the draft you sent around today:

This draft takes care of the state supplementation problem. However, I doubt we can take care of the federal problem by enacting a statute that provides that "[a] nursing home commission's imposition of an assessment on a member for the operating costs of the nursing home, payment of the assessment by the member, and acceptance of the payment by the nursing home commission do not constitute conduct prohibited under ... 42 USC 1320a-7b (d), or 42 USC 1396a (a) (25) (C)." This would in essence represent an attempt to amend federal law via a state enactment. The only way I can think of to take care of the federal problem is to set up the commission such that the payments from member counties are for all intents and purposes "internal" to the commission.

Thanks,

Carrie Kahn  
Legislative Liaison  
Office of the Secretary  
Department of Health Services  
608.266.3262



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRBa2120/P1

RLR...*kyf*

*Wanted  
mon am*

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION  
ASSEMBLY AMENDMENT ,  
TO 2009 ASSEMBLY BILL (LRB-4286/1)**

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 3, line 5: after that line insert:

3 “(am) Member payments to a commission are transactions internal to the  
4 commission.”

5 (END)

**Ryan, Robin**

---

**From:** Palese, Anthony  
**Sent:** Tuesday, April 13, 2010 4:16 PM  
**To:** Ryan, Robin  
**Cc:** Kleinschmidt, Linda  
**Subject:** FW: Multi-County Collaboration

Hi Robin,

After consulting with DHS and the Counties Assoc., I think we'd like to redraft the amendment that you had drafted for AB 944 (it was 09a2120P1). DHS has provided some language in the email below that we would like to try and use if possible.

If you have any questions, please let me know. I'm also assuming that Sen. Vinehout will need a similar amendment, and I have cc'd her staff on this email as well.

Thank you,

**Tony Palese**  
 Legislative Aide  
 Office of Rep. Jennifer Shilling

State Capitol, Room 320 East  
 PO Box 8953, Madison, WI 53708  
 (608) 266-5780 voice  
 (888) 534-0095 toll free  
 (608) 282-3695 fax

---

**From:** Gebhart, Neil R - DHS  
**To:** Kahn, Carrie P - DHS  
**Cc:** Bove, Fredi-Ellen E - DHS; Currans-Sheehan, Rachel H - DHS; Welsh, Diane M - DHS  
**Sent:** Tue Apr 13 11:23:30 2010  
**Subject:** RE: Multi-County Collaboration

If possible at this late date, I recommend redrafting the amendment to amend proposed s. 49.49 (7) (b) – (d) as follows,

(b) A commission's imposition of an assessment on a member for the costs incurred by the commission to operate the nursing home or intermediate care facility and to provide services to residents of the nursing home or intermediate care facility represents a charge internal to the commission and does not constitute billing a 3rd party for services provided on behalf of an individual.

(c) A member's payment ~~to the commission~~ of an assessment described under par. (b) represents a transfer of funds internal to the commission and does not constitute a purchase of services on behalf of an individual, regardless of whether the payment is made from the member's general fund, made pursuant to a purchase of services agreement between a member's human services department or other department and the commission, or by a combination of these payment methods.

(d) A commission's imposition of an assessment described under par. (b), a member's payment of the assessment as described under par. (c) and acceptance of the payment by the ~~nursing home~~ commission do not

04/13/2010

constitute conduct prohibited under sub. (4); or s. DHS 106.04 (3), Wis. Adm. Code, in effect on the effective date of this paragraph ... [LRB inserts date].; In the enactment of this section of the statutes, is the intent of the legislature to create a mechanism whereby several counties may share in the operation, use and funding of a nursing home or intermediate care facility without violating 42 USC 1320a-7b (d), or 42 USC 1396a (a) (25) (C).

Please let me know if you have any questions or wish to discuss this further.

OK  
sam



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRBa2120/P1  
RLR:kjf:jf

Today AM

RMR

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

**ASSEMBLY AMENDMENT,**

**TO 2009 ASSEMBLY BILL (LRB 428611) 944**

1 At the locations indicated, amend the bill as follows:

2 1. Page 3, line 5: after that line insert:

3 "(am) Member payments to a commission are transactions internal to the  
4 commission."

5 (END)

INS →

2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB [initials] a2120/lins  
RLR:.....

- 1           ✓  
1           **1.** Page 3, line 9: before “does not” insert “is a charge internal to the  
2 commission and”.
- 3           ✓  
3           **2.** Page 3, line 10: delete “to the commission”.
- 4           ✓  
4           **3.** Page 3, line 11: after “par. (b)” insert “is a transfer of funds internal to the  
5 commission and”.
- 6           ✓  
6           **4.** Page 3, line 18: delete “nursing home”.
- 7           ✓  
7           **5.** Page 3, line 19: delete “sub. (4),” and substitute “sub. (4) or prohibited  
8 under”.
- 9           ✓  
9           **6.** Page 3, line 20: delete “date],” and substitute “date]. It is the intent of the  
10 legislature to create a mechanism whereby two or more political subdivisions may  
11 share in the operation, use, and funding of a nursing home or intermediate care  
12 facility without violating”.
- 13           ✓  
13           **7.** Page 3, line 20: delete “(d),” and substitute “(d)”.