

2009 DRAFTING REQUEST

Bill

Received: 09/24/2008

Received By: rryan

Wanted: As time permits

Identical to LRB:

For: Administration-Budget

By/Representing: Palchik

This file may be shown to any legislator: NO

Drafter: rryan

May Contact:

Addl. Drafters:

Subject: Health - facility licensure

Extra Copies: TJD

Submit via email: NO

Pre Topic:

DOA:.....Palchik, BB0081 -

Topic:

Fee for follow-up inspections of health care and long-term care facilities and providers

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>
/?				_____			State
/P1	rryan 10/13/2008	bkraft 10/16/2008	phenry 10/16/2008	_____	sbasford 10/16/2008		State
/1	rryan 12/05/2008	bkraft 12/05/2008	phenry 12/05/2008	_____	sbasford 12/05/2008		State
/2	rryan 01/30/2009	bkraft 01/30/2009	mduchek 01/30/2009	_____	sbasford 01/30/2009		

FE Sent For:

<END>

2009 DRAFTING REQUEST

Bill

Received: 09/24/2008

Received By: rryan

Wanted: As time permits

Identical to LRB:

For: Administration-Budget

By/Representing: Palchik

This file may be shown to any legislator: NO

Drafter: rryan

May Contact:

Addl. Drafters:

Subject: Health - facility licensure

Extra Copies: TJD

Submit via email: NO

Pre Topic:

DOA:.....Palchik, BB0081 -

Topic:

Fee for follow-up inspections of health care and long-term care facilities and providers

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>
/?				_____			State
/P1	rryan 10/13/2008	bkraft 10/16/2008	phenry 10/16/2008	_____	sbasford 10/16/2008		State
/1	rryan 12/05/2008	bkraft 12/05/2008	phenry 12/05/2008	_____	sbasford 12/05/2008		

FE Sent For:

1/2 bjk 1/30

<END>

MW
1/30

2009 DRAFTING REQUEST

Bill

Received: **09/24/2008**

Received By: **rryan**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Palchik**

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

Drafter: **rryan**

May Contact:

Addl. Drafters:

Subject: **Health - facility licensure**

Extra Copies: **TJD**

Submit via email: **NO**

Pre Topic:

DOA:.....Palchik, BB0081 -

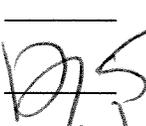
Topic:

Fee for follow-up inspections of health care and long-term care facilities and providers

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>
/?							State
/P1	rryan 10/13/2008	bkraft 10/16/2008	phenry 10/16/2008		sbasford 10/16/2008		

FE Sent For:

1 bjk 12/5



<END>



2009 DRAFTING REQUEST

Bill

Received: **09/24/2008**

Received By: **rryan**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Palchik**

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

Drafter: **rryan**

May Contact:

Addl. Drafters:

Subject: **Health - facility licensure**

Extra Copies: **TJD**

Submit via email: **NO**

Pre Topic:

DOA:.....Palchik, BB0081 -

Topic:

Fee for follow-up inspections of health care and long-term care facilities and providers

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>
/?	rryan	1/PI bjk 10/16	10 1/6 ph	10/16 ph			State

FE Sent For:

<END>

2009-11 Budget Bill Statutory Language Drafting Request

- Topic: Revisit Fee
- Tracking Code: BB0081
- SBO team: Health and Insurance
- SBO analyst: Laurie Palchik
 - Phone: 266-2214
 - Email: laurie.palchik@wisconsin.gov
- Agency acronym: DHS
- Agency number: 435
- Priority (Low, Medium, High): Medium

Intent:

New statutory authority to assess a revisit fee of \$200 on assisted living providers, nursing homes, ICF/MRs, hospitals, hospices and home health agencies. Exempt state operated facilities from a state re-visit fee. Revenues received by the Department from the revisit fee shall be deposited in a the appropriation under s. 20.435(6)(jm).

(See Attached)

Revisit Fee

Decision Needed

Should the Department request authority to assess a revisit fee for certain health care and long term care providers?

Background

1. The Division of Quality Assurance (DQA) is responsible for assuring the health, safety, and welfare of persons utilizing health and community care provider services in Wisconsin. DQA assures quality care through on-site surveys, complaint investigation, facility plan review and construction site visits, nurse aide registration, caregiver background checks and caregiver investigations.
2. DQA regulates nearly 50 facility and provider types. Long-term care facilities include nursing homes and intermediate care facilities for the mentally retarded (ICF/MRs). Assisted living facilities include adult day care (ADC) facilities, adult family homes (AFH), community-based residential facilities (CBRFs), and residential care apartment complexes (RCACs). Non-long term care facilities include hospitals, hospices, home health agencies, rural health clinics, clinical laboratories, end-stage renal dialysis units, ambulatory surgery centers, comprehensive outpatient rehabilitation facilities, swing bed programs, and 23 distinct types of mental health and alcohol and other drug abuse programs.
3. The Department proposes to assess a \$200 revisit fee on the following provider types:
 - Assisted living facilities: CBRFs, AFHs, ADCs, RCACs
 - Nursing homes
 - ICF/MRs
 - Hospitals
 - Hospices
 - Home health agencies
4. A revisit fee would be assessed when DQA state surveyors have taken enforcement actions on the above facility types due to state non-compliance issues at the facility and DQA staff must make an on-site re-inspection to validate the provider's plan of correction. DQA has specific policies for when an on-site revisit review is required for the affected provider types. No revisit fees are proposed for off-site (i.e., desk reviews) revisits.
5. The purpose of a revisit fee is to:
 - To have non-compliant providers pay a larger share of regulatory costs

- To encourage greater compliance by providers, and
 - Generate additional revenue for those DQA programs with funding shortfalls
6. The Department has begun to employ re-inspection fees in the area of public health. Promulgated in August 2007 and effective beginning February 1, 2008, the revision of HFS 172 – Safety, Maintenance and Operation of Public Pools and Water Attractions, established a re-inspection fee for pools and water attractions. The re-inspection fee is assessed “... whenever the Department re-inspects a pool or water attraction because an inspection or the investigation of a complaint reveals the existence of a violation that is potentially hazardous to the health and welfare of patrons or employees of the pool.” Re-inspection fees vary from \$75 for a pool or water attraction up to \$125 depending upon the number of water slides. Re-inspection fees are assessed in addition to applicable permit and pre-inspection fees of pools and water slides. Furthermore, the Department may assess an additional \$50 re-inspection fee if an additional re-inspection is required because the violation has not been corrected within the scheduled time.
 7. Local governments in Wisconsin also employ re-inspection fees. They are especially common for building inspections. For example, the City of Madison charges \$50.00 for each re-inspection in excess of the first which are conducted to ensure compliance with an official notice from the city. The City of Milwaukee charges property owners for the cost of every re-inspection of an order to correct code violations where repairs had not been completed. It is based on a sliding scale: the cost of first re-inspection is \$50, the second is \$75, and the third, and any subsequent re-inspections, is \$150.
 8. The Department estimates that it costs \$200 to complete each on-site revisit for these provider types. On average, it requires four hours of staff time at an hourly rate of \$50 including salary, fringe and travel expenses, to complete the revisit. Based on the above cost for conducting a revisit, the Department proposes to charge each provider \$200 for each revisit.
 9. The assisted living program (Appropriation 639) ended FY08 in deficit. (A fee increase on all assisted living facilities is the subject of a separate DHS budget proposal.) It is estimated that revenue collected from revisit fees to assisted living providers would be \$109,000 and would be used to address the deficit in the assisted living program.
 10. Revenue collected from revisit fees to hospitals, ICF/MRs, hospitals, hospices, and home health agencies would be deposited in Appropriation 637. It is estimated that the revenue collected from revisit fees to these provider types would be \$64,200.
 11. Appropriation 637 and 639 are sub appropriations to a larger Appropriation 6(jm). Appropriation 6(jm) ended in FY 08 in deficit because of the deficit in the assisted living program. Revisit fee revenues collected from hospitals, ICF/MRs, hospitals, hospices, and home health agencies would be used to help off-set the overall deficit in Appropriation 6 (jm).

Current Language

The Department has no current statutory authority to impose a revisit fees on these provider types. The statutory references to existing licensing or certification fees are as follows:

Provider Type	Related Statute
CBRFs	s.50.037, Wis. Stat.
AFHs, state licensed	s.50.033, Wis. Stat.
RCACs, state certified	s.50.034, Wis. Stat.
ADC	s.49.45 (47), Wis. Stat.
Nursing Homes	s.50.04, Wis. Stat.
ICF/MRs	s.49.43 (7), Wis. Stat.
Hospitals	s.50.135, Wis. Stat.
Hospices	s.50.91, Wis. Stat.
Home Health Agencies	s.50.49, Wis. Stat.

Proposed Change

Request new statutory authority to assess a revisit fee of \$200 on assisted living providers, nursing homes, ICF/MRs, hospitals, hospices, and home health agencies. Exempt state operated facilities (i.e., state nursing homes, state ICF/MRs and state hospitals) from a state re-visit fee. Revenues received by the Department from the revisit fee shall be deposited in the appropriation under s.20.435 (6) (jm).

- Language in current 20.435(6)(jm) will cover reinspection fees

Desired Effective Date: Upon passage
Agency: DHS
Agency Contact: Andrew Forsaith
Phone: 266-7684



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0396/3
RLR:.....
Pl
Le
Lbjk

In 10/13/08

DOA:.....Palchik, BB0081 - Fee for follow-up inspections of health care and long-term care facilities and providers

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

SA ✓
X-ref ✓

→ RMR
D-N

do not gen.

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

HEALTH AND HUMAN SERVICES
OTHER HEALTH AND HUMAN SERVICES

Analysis by the Legislative Reference Bureau

Under current law, DHS regulates a variety of health care and long-term care facilities and providers. DHS may inspect these facilities and providers and take enforcement action against them. This bill authorizes DHS to assess a \$200 fee against certain facilities and providers if DHS takes enforcement action against the provider and subsequently conducts an on-site inspection to review the facility's or provider's action to correct the violation. Under the bill, DHS may assess the \$200 inspection fee against a hospital, nursing home, community-based residential facility, residential care apartment complex, adult family home, hospice, home health agency, and adult day care center.

facility on

For further information see the *state* 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:

~~X~~ ~~✓~~ ~~✓~~
1 SECTION 1. 49.45 (47) (e) of the statutes is created to read:

2 ~~✓~~49.45 (47) (e) If the department takes enforcement action against an adult day
3 care center for violating a certification requirement established under s. 49.45 (2) (a)
4 11., and the department subsequently conducts an on-site inspection of the adult day
5 care center to review the adult day care center's action to correct the violation, the
6 department may impose a \$200 inspection fee on the adult day care center. ✓

~~X~~ ~~✓~~ ~~✓~~
7 SECTION 2. 50.03 (5g) (cm) of the statutes is created to read:

8 ~~✓~~50.03 (5g) (cm) If the department imposes a sanction on or takes other
9 enforcement action against a community-based residential facility for a violation of
10 this subchapter or rules promulgated under it, and the department subsequently
11 conducts an on-site inspection of the community-based residential facility to review
12 the community-based residential facility's action to correct the violation, the
13 department may impose a \$200 inspection fee on the community-based residential
14 facility. ✓

~~X~~ ~~✓~~ ~~✓~~
15 SECTION 3. 50.033 (3) of the statutes is amended to read:

16 ~~✓~~50.033 (3) INVESTIGATION OF ALLEGED VIOLATIONS. If the department or a
17 licensing county department under sub. (1m) (b) is advised or has reason to believe
18 that any person is violating this section or the rules promulgated under s. 50.02 (2)
19 (am) 2., the department or the licensing county department shall make an
20 investigation to determine the facts. For the purposes of this investigation, the
21 department or the licensing county department may inspect the premises where the
22 violation is alleged to occur. If the department or the licensing county department
23 finds that the requirements of this section and of rules under s. 50.02 (2) (am) 2. are
24 met, the department or the licensing county department may, if the premises are not
25 licensed, license the premises under this section. If the department or the licensing

1 county department finds that a person is violating this section or the rules under s.
2 50.02 (2) (am) 2., the department or the licensing county department may institute
3 an action under sub. (5). If the department takes enforcement action against an
4 adult family home for violating this section or rules promulgated under s. 50.02 (2)
5 (am) 2., and the department subsequently conducts an on-site inspection of the adult
6 family home to review the adult family home's action to correct the violation, the
7 department may impose a \$200 inspection fee on the adult family home.

8 History: 1993 a. 327; 1995 a. 27; 1997 a. 27; ~~1999 a. 9~~; 2001 a. 16; 2007 a. 20.

8 **SECTION 4.** 50.034 (9) of the statutes is created to read:

9 50.034 (9) INSPECTION FEE. If the department takes enforcement action against
10 a residential care apartment complex for a violation of this section or rules
11 promulgated under sub. (2), and the department subsequently conducts an on-site
12 inspection of the residential care apartment complex to review the residential care
13 apartment complex's action to correct the violation, the department may impose a
14 \$200 inspection fee on the residential care apartment complex.

15 **SECTION 5.** 50.04 (4) (dm) of the statutes is created to read:

16 50.04 (4) (dm) Inspection fee. If the department takes enforcement action
17 against a nursing home, including an intermediate care facility for the mentally
18 retarded, as defined in 42 USC 1396d (d), for a violation of this subchapter or rules
19 promulgated under it or for a violation of a requirement under 42 USC 1396r, and
20 the department subsequently conducts an on-site inspection of the nursing home to
21 review the nursing home's action to correct the violation, the department may, unless
22 the nursing home is operated by the state, impose a \$200 inspection fee on the
23 nursing home.

24 **SECTION 6.** 50.36 (4) of the statutes is amended to read:

1 ✓ 50.36 (4) The department shall make or cause to be made such inspections and
2 investigation, as are reasonably deemed necessary to obtain compliance with the
3 rules and standards. It shall afford an opportunity for representatives of the
4 hospitals to consult with members of the staff of the department concerning
5 compliance and noncompliance with rules and standards. If the department takes
6 enforcement action against a hospital for a violation of ss. 50.32 to 50.39, or rules
7 promulgated or standards adopted under ss. 50.32 to 50.39, and the department
8 subsequently conducts an on-site inspection of the hospital to review the hospital's
9 action to correct the violation, the department may, unless the hospital is operated
10 by the state, impose a \$200 inspection fee on the hospital.

History: 1971 c. 211; 1975 c. 383 s. 4; 1975 c. 413 ss. 4, 18; 1975 c. 421; Stats. 1975 s. 50.36; 1977 c. 29; 1979 c. 34; 1981 c. 135; 1985 a. 340; 1989 a. 37; 1991 a. 129; 1993 a. 16, 30, 270; 1995 a. 27 ss. 3245, 3246, 9116 (5); 1997 a. 175; 1999 a. 9; 2001 a. 109; 2007 a. 20, 104.

11 **SECTION 7. 50.49 (4) of the statutes is amended to read:**

12 ✓ 50.49 (4) LICENSING, INSPECTION AND REGULATION. Except as provided in sub.
13 (6m), the department may register, license, inspect and regulate home health
14 agencies as provided in this section. The department shall ensure, in its inspections
15 of home health agencies, that a sampling of records from private pay patients are
16 reviewed. The department shall select the patients who shall receive home visits as
17 a part of the inspection. Results of the inspections shall be made available to the
18 public at each of the regional offices of the department. If the department takes
19 enforcement action against a home health agency for a violation of this section or
20 rules promulgated under this section, and the department subsequently conducts an
21 on-site inspection of the home health agency to review the home health agency's
22 action to correct the violation, the department may impose a \$200 inspection fee on
23 the home health agency.

History: 1981 c. 93 ss. 162 to 166, 184; 1989 a. 31, 316; 1993 a. 27 s. 279; Stats. 1993 s. 50.49; 1993 a. 482; 1995 a. 225; 1997 a. 27, 237; 1999 a. 9, 83; 2005 a. 187; 2007 a. 20.

1
2
3
4
5
6
7

SECTION 8. 50.93 (5) of the statutes is created to read:

50.93 (5) INSPECTION FEE. If the department takes enforcement action against a hospice for a violation of this subchapter or rules promulgated under this subchapter, and the department subsequently conducts an on-site inspection of the hospice to review the hospice's action to correct the violation, the department may impose a \$200 inspection fee on the hospice.

(END)

D-note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0396/P1dn

RLR:.....

Lbjk

Date

✓
Laurie Palchik:

Please review proposed s. 50.04 (4) (dm) with respect to the following: ✓

1) I included ICF-MRs in the treatment of nursing homes because it is my understanding that ICF-MRs are licensed as nursing homes. ✓

2) This draft allows DHS to impose an inspection fee on nursing homes for inspections conducted to follow up on federal law violations as well as violations of ch. 50. Is this appropriate? ✓

Should counties that license adult family homes be authorized to charge a fee for repeat inspections like DHS? ✓

> Do you want to include an initial applicability provision, for example, stating that the authority to assess an inspection fee applies only in connection with enforcement actions that are taken on or after the effective date of the budget bill? ✓

Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0396/P1dn
RLR:bjk:ph

October 16, 2008

Laurie Palchik:

Please review proposed s. 50.04 (4) (dm) with respect to the following:

- 1) I included ICF-MRs in the treatment of nursing homes because it is my understanding that ICF-MRs are licensed as nursing homes.
- 2) This draft allows DHS to impose an inspection fee on nursing homes for inspections conducted to follow up on federal law violations as well as violations of ch. 50. Is this appropriate?

Should counties that license adult family homes be authorized to charge a fee for repeat inspections like DHS?

Do you want to include an initial applicability provision, for example, stating that the authority to assess an inspection fee applies only in connection with enforcement actions that are taken on or after the effective date of the budget bill?

Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.wisconsin.gov

Ryan, Robin

From: Palchik, Laurie A - DOA [laurie.palchik@wisconsin.gov]
Sent: Thursday, December 04, 2008 7:57 PM
To: Ryan, Robin
Subject: FW: Comments on LRB Draft: 09-0396/P1
Attachments: 09-0396P1.pdf; 09-0396P1dn.pdf

Hi Robin,

Attached are responses to your questions posed in your drafter's note. Regarding the final comments related to referencing the administrative code, we will defer to your judgment on what is necessary.

1. Yes, ICFs-MR should be included in the treatment of nursing homes as an ICF-MR is identified as a nursing home in ch. 50. The State-owned ICFs-MR should also be exempt from the revisit fee.

2. Yes, it is appropriate that the proposed law allows the Department to impose an inspection fee to conduct follow up on federal violations as well as state violations in nursing homes. DQA citing policy only requires citing violations that result in actual harm or have a strong potential for harm. Federal procedure mandate States to cite all violations of federal regulations. As a result, in 2008, Wisconsin cited 2,184 federal deficiencies that require verification. During this same time, only 451 state violations were issued that require verification. If the Department were only allowed to impose a fee for inspections to follow up on state violations and not federal deficiencies, a significant number of onsite inspections would not be funded. With that said, the Department will need to seek federal approval to impose the fee. However, since the language is permissive, the Department would simply not impose the fee for federal violations if CMS does not approve.

3. We recommend exempting the county homes under s. 50.032 from the fee. There are few of these homes, because the provision only applies to foster homes converted AFHs as the residents reach adulthood. *My question referred to homes under 50.033 - states, say counties may license.*

4. Yes, the draft should include an initial applicability provision as suggested to avoid confusion.

Other comments:

Adult Family Home and Residential Care Apartment Complex administrative rules have provisions for sanctions that are frequently used by the Bureau of Assisted Living. Should statutory language be added to reference what currently exists? We want to ensure that the new statute doesn't create a loop hole that would limit our flexibility to use both s. 50 or the Wisconsin administrative code. The following additions to the draft language are suggested:

For AFH. Page 3, line 5

am2., (insert - "or a sanction under Wisconsin Administrative code HFS 88.03(6)(g)") and the department subsequently conducts.....

For RCAC. Page 3, line 11

Promulgated under sub.(2), (insert - "or a sanction under Wisconsin Administrative code HFS 89.56") and the department subsequently conducts.....

Thank you for the opportunity to review the draft. Let me know if you have any questions.

Jane Walters, Deputy Administrator

12/05/2008

Division of Quality Assurance
Department of Health Services
1 W. Wilson St. P.O. Box 2969
Madison, WI 53701-2969
(608) 266-7952
jane.walters@WI.gov

Notice: This email and any attachment may contain confidential information. Use and further disclosure of information by the recipient must be consistent with all laws, regulations, and agreements. If you received this email in error, please notify the sender, delete the email, and do not use, disclose, or store the information it contains.



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0396/P1

RLR:bjk:ph

In 12/5/08

stay

DOA:.....Palchik, BB0081 - Fee for follow-up inspections of health care and long-term care facilities and providers

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

SA✓

Insert

RMP
J-N

do not gen.

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

HEALTH AND HUMAN SERVICES

OTHER HEALTH AND HUMAN SERVICES

Analysis by the Legislative Reference Bureau

Under current law, DHS regulates a variety of health care and long-term care facilities and providers. DHS may inspect these facilities and providers and take enforcement action against them. This bill authorizes DHS to assess a \$200 fee against certain facilities and providers if DHS takes enforcement action against the facility or provider and subsequently conducts an on-site inspection to review the facility's or provider's action to correct the violation. Under the bill, DHS may assess the \$200 inspection fee against a hospital, nursing home, community-based residential facility, residential care apartment complex, adult family home, hospice, home health agency, and adult day care center.

For further information see the *state* 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.** 49.45 (47) (e) of the statutes is created to read:

2 49.45 (47) (e) If the department takes enforcement action against an adult day
3 care center for violating a certification requirement established under s. 49.45 (2) (a)
4 11., and the department subsequently conducts an on-site inspection of the adult day
5 care center to review the adult day care center's action to correct the violation, the
6 department may impose a \$200 inspection fee on the adult day care center.

7 **SECTION 2.** 50.03 (5g) (cm) of the statutes is created to read:

8 50.03 (5g) (cm) If the department imposes a sanction on or takes other
9 enforcement action against a community-based residential facility for a violation of
10 this subchapter or rules promulgated under it, and the department subsequently
11 conducts an on-site inspection of the community-based residential facility to review
12 the community-based residential facility's action to correct the violation, the
13 department may impose a \$200 inspection fee on the community-based residential
14 facility.

15 **SECTION 3.** 50.033 (3) of the statutes is amended to read:

16 50.033 (3) INVESTIGATION OF ALLEGED VIOLATIONS. If the department or a
17 licensing county department under sub. (1m) (b) is advised or has reason to believe
18 that any person is violating this section or the rules promulgated under s. 50.02 (2)
19 (am) 2., the department or the licensing county department shall make an
20 investigation to determine the facts. For the purposes of this investigation, the
21 department or the licensing county department may inspect the premises where the
22 violation is alleged to occur. If the department or the licensing county department
23 finds that the requirements of this section and of rules under s. 50.02 (2) (am) 2. are
24 met, the department or the licensing county department may, if the premises are not
25 licensed, license the premises under this section. If the department or the licensing

1 county department finds that a person is violating this section or the rules under s.
2 50.02 (2) (am) 2., the department or the licensing county department may institute
3 an action under sub. (5). If the department takes enforcement action against an
4 adult family home for violating this section or rules promulgated under s. 50.02 (2)
5 (am) 2., and the department subsequently conducts an on-site inspection of the adult
6 family home to review the adult family home's action to correct the violation, the
7 department may impose a \$200 inspection fee on the adult family home.

8 **SECTION 4.** 50.034 (9) of the statutes is created to read:

9 50.034 (9) INSPECTION FEE. If the department takes enforcement action against
10 a residential care apartment complex for a violation of this section or rules
11 promulgated under sub. (2), and the department subsequently conducts an on-site
12 inspection of the residential care apartment complex to review the residential care
13 apartment complex's action to correct the violation, the department may impose a
14 \$200 inspection fee on the residential care apartment complex.

15 **SECTION 5.** 50.04 (4) (dm) of the statutes is created to read:

16 50.04 (4) (dm) *Inspection fee.* If the department takes enforcement action
17 against a nursing home, including an intermediate care facility for the mentally
18 retarded, as defined in 42 USC 1396d (d), for a violation of this subchapter or rules
19 promulgated under it or for a violation of a requirement under 42 USC 1396r, and
20 the department subsequently conducts an on-site inspection of the nursing home to
21 review the nursing home's action to correct the violation, the department may, unless
22 the nursing home is operated by the state, impose a \$200 inspection fee on the
23 nursing home.

24 **SECTION 6.** 50.36 (4) of the statutes is amended to read:

1 50.36 (4) The department shall make or cause to be made such inspections and
2 investigation, as are reasonably deemed necessary to obtain compliance with the
3 rules and standards. It shall afford an opportunity for representatives of the
4 hospitals to consult with members of the staff of the department concerning
5 compliance and noncompliance with rules and standards. If the department takes
6 enforcement action against a hospital for a violation of ss. 50.32 to 50.39, or rules
7 promulgated or standards adopted under ss. 50.32 to 50.39, and the department
8 subsequently conducts an on-site inspection of the hospital to review the hospital's
9 action to correct the violation, the department may, unless the hospital is operated
10 by the state, impose a \$200 inspection fee on the hospital.

11 SECTION 7. 50.49 (4) of the statutes is amended to read:

12 50.49 (4) LICENSING, INSPECTION AND REGULATION. Except as provided in sub.
13 (6m), the department may register, license, inspect and regulate home health
14 agencies as provided in this section. The department shall ensure, in its inspections
15 of home health agencies, that a sampling of records from private pay patients are
16 reviewed. The department shall select the patients who shall receive home visits as
17 a part of the inspection. Results of the inspections shall be made available to the
18 public at each of the regional offices of the department. If the department takes
19 enforcement action against a home health agency for a violation of this section or
20 rules promulgated under this section, and the department subsequently conducts an
21 on-site inspection of the home health agency to review the home health agency's
22 action to correct the violation, the department may impose a \$200 inspection fee on
23 the home health agency.

24 SECTION 8. 50.93 (5) of the statutes is created to read:

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0396/lins
RLR:.....

ljk

1

2

SECTION 9322. Initial applicability; Health Services. ✓

3

(1) INSPECTION FEES. The treatment of sections 49.45 (47) (e), 50.03 (5g) (cm),

4

50.033 (3), 50.034 (9), 50.04 (4) (dm), 50.36 (4), 50.49 (4), and 50.93 (5) of the statutes

5

first applies to enforcement actions taken on the effective date of this subsection. ✓

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0396/1dn
RLR.....

Lbjk

Date

Laurie Palchik:

This redraft adds an initial applicability provision. ✓

I did not change the description of violations for which DHS may impose an inspection fee to specifically reference HFS 88 and 89 (now DHS 88 and 89), because code violations are already covered as follows: ✓

- > 1. ^{redraft} DHS 88 is promulgated under authority of ^{s.} 50.02 (2) (am) 2. and 50.033 (2). The ~~bill~~ ✓
> ~~bill~~ allows an inspection fee for rules promulgated under s. 50.02 (2) (am) 2. (Section 50.033 (2) just refers to rules under s. 50.02 (2) (am) 2.)
- > 2. DHS 89 is promulgated under authority of s. 50.034. The ^{redraft} ~~bill~~ allows an inspection ✓
> fee for rules promulgated under s. 50.034 (2).

Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0396/1dn
RLR:bjk:ph

December 5, 2008

Laurie Palchik:

This redraft adds an initial applicability provision.

I did not change the description of violations for which DHS may impose an inspection fee to specifically reference HFS 88 and 89 (now DHS 88 and 89), because code violations are already covered as follows:

1. DHS 88 is promulgated under authority of ss. 50.02 (2) (am) 2. and 50.033 (2). The draft allows an inspection fee for rules promulgated under s. 50.02 (2) (am) 2. (Section 50.033 (2) just refers to rules under s. 50.02 (2) (am) 2.)
2. DHS 89 is promulgated under authority of s. 50.034. The draft allows an inspection fee for rules promulgated under s. 50.034 (2).

Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.wisconsin.gov



L stays

DOA:.....Palchik, BB0081 - Fee for follow-up inspections of health care and long-term care facilities and providers

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

SAV

RMR

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

Under current law, DHS regulates a variety of health care and long-term care facilities and providers. DHS may inspect these facilities and providers and take enforcement action against them. This bill authorizes DHS to assess a \$200 fee against certain facilities and providers if DHS takes enforcement action against the facility or provider and subsequently conducts an on-site inspection to review the facility's or provider's action to correct the violation. Under the bill, DHS may assess the \$200 inspection fee against a hospital, nursing home, community-based residential facility, residential care apartment complex, adult family home, hospice, home health agency, and adult day care center.

For further information see the *state* 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.** 49.45 (47) (e) of the statutes is created to read:

2 49.45 (47) (e) If the department takes enforcement action against an adult day
3 care center for violating a certification requirement established under s. 49.45 (2) (a)
4 11., and the department subsequently conducts an on-site inspection of the adult day
5 care center to review the adult day care center's action to correct the violation, the
6 department may impose a \$200 inspection fee on the adult day care center.

7 **SECTION 2.** 50.03 (5g) (cm) of the statutes is created to read:

8 50.03 (5g) (cm) If the department imposes a sanction on or takes other
9 enforcement action against a community-based residential facility for a violation of
10 this subchapter or rules promulgated under it, and the department subsequently
11 conducts an on-site inspection of the community-based residential facility to review
12 the community-based residential facility's action to correct the violation, the
13 department may impose a \$200 inspection fee on the community-based residential
14 facility.

15 **SECTION 3.** 50.033 (3) of the statutes is amended to read:

16 50.033 (3) INVESTIGATION OF ALLEGED VIOLATIONS. If the department or a
17 licensing county department under sub. (1m) (b) is advised or has reason to believe
18 that any person is violating this section or the rules promulgated under s. 50.02 (2)
19 (am) 2., the department or the licensing county department shall make an
20 investigation to determine the facts. For the purposes of this investigation, the
21 department or the licensing county department may inspect the premises where the
22 violation is alleged to occur. If the department or the licensing county department
23 finds that the requirements of this section and of rules under s. 50.02 (2) (am) 2. are
24 met, the department or the licensing county department may, if the premises are not
25 licensed, license the premises under this section. If the department or the licensing

1 county department finds that a person is violating this section or the rules under s.
 2 50.02 (2) (am) 2., the department or the licensing county department may institute
 3 an action under sub. (5). If the department takes enforcement action against an
 4 adult family home for violating this section or rules promulgated under s. 50.02 (2)
 5 (am) 2., and the department subsequently conducts an on-site inspection of the adult
 6 family home to review the adult family home's action to correct the violation, the
 7 department may impose a \$200 inspection fee on the adult family home.

8 **SECTION 4.** 50.034 (9) of the statutes is created to read:

9 50.034 (9) INSPECTION FEE. If the department takes enforcement action against
 10 a residential care apartment complex for a violation of this section or rules
 11 promulgated under sub. (2), and the department subsequently conducts an on-site
 12 inspection of the residential care apartment complex to review the residential care
 13 apartment complex's action to correct the violation, the department may impose a
 14 \$200 inspection fee on the residential care apartment complex.

15 **SECTION 5.** 50.04 (4) (dm) of the statutes is created to read:

16 50.04 (4) (dm) *Inspection fee.* If the department takes enforcement action
 17 against a nursing home, including an intermediate care facility for the mentally
 18 retarded, as defined in 42 USC 1396d (d), for a violation of this subchapter or rules
 19 promulgated under it or for a violation of a requirement under 42 USC 1396r, and
 20 the department subsequently conducts an on-site inspection of the nursing home to
 21 review the nursing home's action to correct the violation, the department may, unless
 22 the nursing home is operated by the state, impose a \$200 inspection fee on the
 23 nursing home.

24 **SECTION 6.** 50.36 (4) of the statutes is amended to read:

1 50.36 (4) The department shall make or cause to be made such inspections and
2 investigation, as are reasonably deemed necessary to obtain compliance with the
3 rules and standards. It shall afford an opportunity for representatives of the
4 hospitals to consult with members of the staff of the department concerning
5 compliance and noncompliance with rules and standards. If the department takes
6 enforcement action against a hospital for a violation of ss. 50.32 to 50.39, or rules
7 promulgated or standards adopted under ss. 50.32 to 50.39, and the department
8 subsequently conducts an on-site inspection of the hospital to review the hospital's
9 action to correct the violation, the department may, unless the hospital is operated
10 by the state, impose a \$200 inspection fee on the hospital.

11 SECTION 7. 50.49 (4) of the statutes is amended to read:

12 50.49 (4) LICENSING, INSPECTION AND REGULATION. Except as provided in sub.
13 (6m), the department may register, license, inspect and regulate home health
14 agencies as provided in this section. The department shall ensure, in its inspections
15 of home health agencies, that a sampling of records from private pay patients are
16 reviewed. The department shall select the patients who shall receive home visits as
17 a part of the inspection. Results of the inspections shall be made available to the
18 public at each of the regional offices of the department. If the department takes
19 enforcement action against a home health agency for a violation of this section or
20 rules promulgated under this section, and the department subsequently conducts an
21 on-site inspection of the home health agency to review the home health agency's
22 action to correct the violation, the department may impose a \$200 inspection fee on
23 the home health agency.

24 SECTION 8. 50.93 (5) of the statutes is created to read:



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0396/2

RLR:bjk:md

DOA:.....Palchik, BB0081 - Fee for follow-up inspections of health care and long-term care facilities and providers

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

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, DHS regulates a variety of health care and long-term care facilities and providers. DHS may inspect these facilities and providers and take enforcement action against them. This bill authorizes DHS to assess a \$200 fee against certain facilities and providers if DHS takes enforcement action against the facility or provider and subsequently conducts an on-site inspection to review the facility's or provider's action to correct the violation. Under the bill, DHS may assess the \$200 inspection fee against a hospital, nursing home, community-based residential facility, residential care apartment complex, adult family home, hospice, home health agency, and adult day care center.

For further information see the *state* 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.** 49.45 (47) (e) of the statutes is created to read:

2 49.45 (47) (e) If the department takes enforcement action against an adult day
3 care center for violating a certification requirement established under s. 49.45 (2) (a)
4 11., and the department subsequently conducts an on-site inspection of the adult day
5 care center to review the adult day care center's action to correct the violation, the
6 department may impose a \$200 inspection fee on the adult day care center.

7 **SECTION 2.** 50.03 (5g) (cm) of the statutes is created to read:

8 50.03 (5g) (cm) If the department imposes a sanction on or takes other
9 enforcement action against a community-based residential facility for a violation of
10 this subchapter or rules promulgated under it, and the department subsequently
11 conducts an on-site inspection of the community-based residential facility to review
12 the community-based residential facility's action to correct the violation, the
13 department may impose a \$200 inspection fee on the community-based residential
14 facility.

15 **SECTION 3.** 50.033 (3) of the statutes is amended to read:

16 50.033 (3) INVESTIGATION OF ALLEGED VIOLATIONS. If the department or a
17 licensing county department under sub. (1m) (b) is advised or has reason to believe
18 that any person is violating this section or the rules promulgated under s. 50.02 (2)
19 (am) 2., the department or the licensing county department shall make an
20 investigation to determine the facts. For the purposes of this investigation, the
21 department or the licensing county department may inspect the premises where the
22 violation is alleged to occur. If the department or the licensing county department
23 finds that the requirements of this section and of rules under s. 50.02 (2) (am) 2. are
24 met, the department or the licensing county department may, if the premises are not
25 licensed, license the premises under this section. If the department or the licensing

1 county department finds that a person is violating this section or the rules under s.
2 50.02 (2) (am) 2., the department or the licensing county department may institute
3 an action under sub. (5). If the department takes enforcement action against an
4 adult family home for violating this section or rules promulgated under s. 50.02 (2)
5 (am) 2., and the department subsequently conducts an on-site inspection of the adult
6 family home to review the adult family home's action to correct the violation, the
7 department may impose a \$200 inspection fee on the adult family home.

8 **SECTION 4.** 50.034 (10) of the statutes is created to read:

9 50.034 (10) INSPECTION FEE. If the department takes enforcement action
10 against a residential care apartment complex for a violation of this section or rules
11 promulgated under sub. (2), and the department subsequently conducts an on-site
12 inspection of the residential care apartment complex to review the residential care
13 apartment complex's action to correct the violation, the department may impose a
14 \$200 inspection fee on the residential care apartment complex.

15 **SECTION 5.** 50.04 (4) (dm) of the statutes is created to read:

16 50.04 (4) (dm) *Inspection fee.* If the department takes enforcement action
17 against a nursing home, including an intermediate care facility for the mentally
18 retarded, as defined in 42 USC 1396d (d), for a violation of this subchapter or rules
19 promulgated under it or for a violation of a requirement under 42 USC 1396r, and
20 the department subsequently conducts an on-site inspection of the nursing home to
21 review the nursing home's action to correct the violation, the department may, unless
22 the nursing home is operated by the state, impose a \$200 inspection fee on the
23 nursing home.

24 **SECTION 6.** 50.36 (4) of the statutes is amended to read:

1 50.36 (4) The department shall make or cause to be made such inspections and
2 investigation, as are reasonably deemed necessary to obtain compliance with the
3 rules and standards. It shall afford an opportunity for representatives of the
4 hospitals to consult with members of the staff of the department concerning
5 compliance and noncompliance with rules and standards. If the department takes
6 enforcement action against a hospital for a violation of ss. 50.32 to 50.39, or rules
7 promulgated or standards adopted under ss. 50.32 to 50.39, and the department
8 subsequently conducts an on-site inspection of the hospital to review the hospital's
9 action to correct the violation, the department may, unless the hospital is operated
10 by the state, impose a \$200 inspection fee on the hospital.

11 **SECTION 7.** 50.49 (4) of the statutes is amended to read:

12 50.49 (4) LICENSING, INSPECTION AND REGULATION. Except as provided in sub.
13 (6m), the department may register, license, inspect and regulate home health
14 agencies as provided in this section. The department shall ensure, in its inspections
15 of home health agencies, that a sampling of records from private pay patients are
16 reviewed. The department shall select the patients who shall receive home visits as
17 a part of the inspection. Results of the inspections shall be made available to the
18 public at each of the regional offices of the department. If the department takes
19 enforcement action against a home health agency for a violation of this section or
20 rules promulgated under this section, and the department subsequently conducts an
21 on-site inspection of the home health agency to review the home health agency's
22 action to correct the violation, the department may impose a \$200 inspection fee on
23 the home health agency.

24 **SECTION 8.** 50.93 (5) of the statutes is created to read:

