

2009 DRAFTING REQUEST

Bill

Received: **09/24/2008**

Received By: **rryan**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Willing**

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

Drafter: **rryan**

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Subject: **Health - facility licensure**

Extra Copies: **TJD**

Submit via email: **NO**

Pre Topic:

DOA:.....Willing, BB0093 -

Topic:

Nursing home bed transfers

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>
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/1	rryan 10/20/2008	kfollett 10/20/2008	jfrantze 10/20/2008	_____	lparisi 10/20/2008		

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/?	rryan	11kjf 10/20	[Signature]	Self 10/20			

FE Sent For:

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2009-11 Budget Bill Statutory Language Drafting Request

- Topic: Nursing Home Bed Transfers
- Tracking Code: BB0093
- SBO team: Health and Insurance
- SBO analyst: Krista Willing
 - Phone: 267-7980
 - Email: krista.willing@wisconsin.gov
- Agency acronym: DHS
- Agency number: 435
- Priority (Low, Medium, High): Medium

Intent:

Remove the health planning area and common ownership limitations for bed transfers under s. 150.345. See attached document.



Department of Health Services
2009-2011 Biennial Budget Statutory Language Request
September 12, 2008

Nursing Home Bed Transfers

Decision Needed

Should the Department request statutory language to allow the transfers of licensed beds among separately owned homes and between health planning areas?

Background

1. The Department routinely receives requests to transfer licensed nursing home beds from one nursing home to another. The current law under s. 150.345 only allows such a transfer if the transferring and receiving nursing homes are under common ownership and in the same health planning area (or an adjoining county to that area).
2. When these restrictions were adopted, the nursing home industry was an expanding industry with excess demand. However, the status of the nursing home industry and the demand for nursing home beds has changed. For at least the last decade, utilization of nursing homes has declined, and there is excess capacity in this industry. In SFY 2006 and 2007, nursing homes delicensed beds at an average rate of 56 beds per month. As a result, the current statewide bed cap greatly exceeds the number of licensed beds. The expansion of Family Care will likely increase the number of "excess nursing home beds" as community long-term care alternatives increase.
3. The changes in the demand for nursing home beds diminishes the need for the common ownership and health planning area conditions. The retention of these conditions may limit the effective distribution of beds and the development of improved facilities.

Health Planning Areas

4. The restriction of nursing home bed transfers to within health planning areas and adjoining counties was intended to limit the potential for the creation of underserved areas if providers move beds from declining population areas, such as Northern Wisconsin, to areas with greater population. However, there is currently no risk of an insufficient supply of beds resulting from the elimination of this restriction. The Department would still retain the ability to review transfer applications and could deny transfers that it determined would leave an area with insufficient nursing home beds.
5. Currently, a number of providers are able to circumvent the health planning area restriction. Provider chains with facilities in multiple health planning areas are able to use successive transfers to move beds from one planning area to another. The elimination of the health

planning area restriction, s. 150.345(1)(a), would allow a more efficient distribution of beds as more providers are able to transfer beds from underutilized areas to areas with growing need.

Common Ownership

6. The restrictions on bed transfers were intended to prevent existing nursing homes from expanding or new facilities from opening by purchasing beds from other facilities. However, given the current excess supply of beds, it is unlikely that there would be many requests for bed transfers or that the nursing home market will return to a state where demand exceeds licensed capacity.
7. Transferee under the common ownership requirement is a cumbersome process. If providers wish to transfer beds, the facility receiving the beds must purchase the facility where the beds are located and establish common ownership. The process requires the Department to review the transaction to determine whether it complies with licensure statutes. This includes analysis of financial resources, prior compliance history of the applicant, determination of whether the applicant has the qualified staff and necessary policies and procedures in place, as well as an appropriate physical plant.
8. The elimination of the common ownership requirement, s. 150.345(1)(b), would eliminate this cumbersome process, thus allowing a more streamlined, less resource-intensive approval process for the transfer of beds between different owners.

Potential Benefits of Elimination of Restrictions

9. The current restrictions may limit the construction of facilities that are more efficient and better meet consumer preferences. Many of the state's nursing homes were built many years ago and reflect designs that may be outdated, such as double occupancy rooms, shared bathrooms, and a large number of beds. The recent focus of nursing home reform has been on smaller, more community-oriented facilities.
10. Current law prohibits the creation of new licensed beds and the opening of a new facility by an operator who does not currently own rights to beds. The potential construction of more up-to-date and efficient facilities relies on the reallocation of existing licensed beds, which is limited by the restrictions on transferring between separate owners and health planning areas. The elimination of these restrictions would allow an owner to construct a new facility by purchasing beds from another owner with excess capacity.
11. The Department expects the nursing home industry to be supportive of these changes as it provides them with greater flexibility to run their businesses efficiently.

Current Language

The statute (s. 150.345) establishes four conditions for a nursing home bed transfer:

- 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;
- The transferring nursing home and the receiving nursing home are owned by corporations that are owned by the same person;
- The transferring and receiving nursing homes notify the department of the proposed transfer within 30 days before the transfer occurs;
- The department reviews and approves the transfer.

Proposed Change

The Department proposes removing the health planning area and common ownership limitations while retaining the other conditions for bed transfers under s. 150.345.

Desired Effective Date: Upon passage of budget bill
Agency: DHS
Agency Contact: Michael Pancook
Phone: 266-9364

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State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-03982

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In 10/14/08

RMR

DOA:.....Willing, BB0093 - Nursing home bed transfers

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

OTHER HEALTH AND HUMAN SERVICES

Current law imposes a cap on the number of nursing home beds that may be licensed statewide. DHS allocates the number of authorized licensed beds among seven planning areas. DHS further allocates beds authorized for a planning area among nursing homes that apply for the beds. A nursing home may transfer an authorized licensed bed to another nursing home if the receiving nursing home is in the same planning area as the transferring nursing home or in a county adjoining the planing area, if the transferring and receiving nursing homes are under common ownership, and if the nursing homes notify DHS of the transfer and DHS approves it.

This bill allows a nursing home to transfer an authorized licensed bed to another nursing home regardless of location and ownership of the nursing homes as long as the nursing homes notify DHS and DHS approves the transfer.

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

X

2 SECTION 1. 150.345 (1) (a) of the statutes is repealed.



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