

2009 DRAFTING REQUEST

Bill

Received: **11/06/2008**

Received By: **rryan**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Fox**

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

Drafter: **rryan**

May Contact:

Addl. Drafters:

Subject: **Health - long-term care**

Extra Copies: **TJD**

Submit via email: **NO**

Pre Topic:

DOA:.....Fox, BB0193 -

Topic:

Adult Family Homes

Instructions:

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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/P1	rryan 11/17/2008	wjackson 12/02/2008	jfrantze 12/02/2008	_____	sbasford 12/02/2008		State
/P2	rryan 01/23/2009	wjackson 01/25/2009	mduchek 01/25/2009	_____	chanaman 01/25/2009		State
/P3	rryan 01/27/2009	wjackson 01/27/2009	jfrantze 01/27/2009	_____	sbasford 01/27/2009		State
/P4	rryan 01/30/2009	csicilia 01/30/2009	mduchek 01/30/2009	_____	sbasford 01/30/2009		

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/P4	rryan 01/30/2009	lrb_editor		_____			

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/P2	rryan 01/23/2009	wjackson 01/25/2009	mduchek 01/25/2009	_____	chanaman 01/25/2009		

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Jb
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Jb/km
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Extra Copies: TJD

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DOA:.....Sabrina Fox, BB0193 -

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/P1	rryan 11/17/2008	wjackson 12/02/2008	jfrantze 12/02/2008	_____	sbasford 12/02/2008		

FE Sent For:

p2 wly 1/25
NO
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By/Representing: Sabrina Fox

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12/2

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FE Sent For:

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2009-11 Budget Bill Statutory Language Drafting Request

- Topic: Adult Family Home Regulations
- Tracking Code: *BB0193*
- SBO team: Health and Insurance
- SBO analyst: Sabrina Fox
 - Phone: 266-8593
 - Email: Sabrina.Fox@wisconsin.gov
- Agency acronym: DHS
- Agency number: 435
- Priority (Low, Medium, High): High

Intent:

To create language that requires certification of 1-2 AFH that serve Family Care enrollees or county clients, authorizes the Department to investigate complaints, rescind certification if certification standards are not met and authorize the Department to charge a fee to cover costs of certification. Existing homes that were certified by counties to serve clients in the MA waivers or other county programs will not have to be recertified to serve Family care enrollees or county clients. See attached.

Adult Family Home Regulations

Decision Needed

What regulatory system should the state adopt for adult family homes (AFHs) once Family Care is implemented?

Background

1. Under current law (s. 50.033), 3-4 bed adult family homes must be licensed by DHS to operate. (S. 50.032 also allows state or county certification for certain foster homes converted to AFH)
2. Currently, there are no statutory provisions regarding 1-2 bed AFHs. However, DHS has required counties, as a condition of participating in the waivers, to certify 1-2 AFHs serving waiver clients using MA Waiver standards. One to 2 bed homes serving exclusively private pay or non waiver clients are not subject to any formal regulation. Individual counties likely enforce their own quality standards in 1-2 bed AFHs serving non-waiver county clients. There are 1,154 AFHs licensed by the DHS Division of Quality Assurance (DQA). It is estimated that there is approximately 1,100 county certified 1-2 bed homes as well.
3. With Family Care implementation, the waiver programs will sunset, and the state must decide what, if any, regulation should be retained for 1-2 bed homes and what entities should perform that regulation.

Is regulation of 1-2 bed homes needed?

4. In considering this issue, a threshold question is whether it is necessary for the state to continue to establish and enforce regulatory standards for 1-2 bed homes once existing waiver programs sunset. The answer is yes for several reasons. First, these homes serve very vulnerable individuals with significant care needs. The state has an interest in protecting the health and safety of individuals in these settings. The number of AFHs is likely to grow as the state expands community options for elders and people with disabilities through Family Care.
5. Second, federal law requires states to establish and enforce quality standards in facilities serving SSI recipients and/or Medicaid waivers:
 - a. The "Keyes Amendment" provides that *Each State shall establish or designate one or more State or local authorities which shall establish, maintain, and insure the enforcement of standards for any category of institutions, foster homes, or group living*

arrangements in which (as determined by the State) a significant number of recipients of supplemental security income benefits is residing or is likely to reside. Such standards shall be appropriate to the needs of such recipients and the character of the facilities involved, and shall govern such matters as admission policies, safety, sanitation, and protection of civil rights. Social Security Act, s. 1616(e)(1); 42 U.S.C. 1382e(e)(1).

- b. For the 1915(c) home and community based (HCB) waivers, the state is required under federal Medicaid law to ensure that “*necessary safeguards (including adequate standards for provider participation) have been taken to protect the health and welfare of individuals provided services under the waiver ...*” Social Security Act s. 1915(c)(2)(A); 42 USC 1396n(c)(2)(A).
6. Under the existing Family Care waivers, the state committed to require MCOs to use providers that meet certification for Medicaid state plan services and provider standards under the state’s existing waiver programs. Alternatively, the MCO can use, with state approval, alternative standards that meet or exceed the normal standards.
7. In summary, to comply with HCB Waiver regulations, DHS must continue to ensure certification of AFHs serving Family Care participants. In addition, to comply with the Keyes Amendment, the state must establish a regulatory system for 1-2 bed homes serving non-Family Care county clients who receive SSI.

Who Should Regulate 1-2 bed AFHs?

8. County long term care units that certified 1-2 adult family homes are dissolving, because of Family Care implementation. Consequently, the Department must decide what entities should inherit responsibility for regulation of these homes and must consider the following issues.
9. *1-2 bed AFHs serving Family Care participants:* The original 5 Family Care MCOs, in partnership with their counties, certify 1-2 AFHs serving their clients using the waiver standards. The Department could continue to assign MCOs the AFH responsibility as Family Care expands statewide. However, this approach raises certain issues. First, while the original 5 MCOs were county-run, many MCOs under statewide expansion will be private organizations. It can be argued that it is inappropriate to assign the regulatory function to the private entity that at the same time is purchasing AFH services. In addition, the risk exists that the MCO would not fully protect health and safety standards in an effort to identify low cost residential services for its consumers.
10. As noted above, DHS requires MCOs by contract to use Medicaid certified providers to deliver services to their consumers and to ensure that the providers meet the certification standards. In most cases, those providers (community based residential facilities or home health agencies, for example) are also state licensed and thus are subject to independent enforcement of health and safety standards.
11. *1-2 bed AFHs serving non-Family Care county clients:* Counties will continue to serve clients in non Family Care target groups in 1-2 AFHs. With the sunset of the waiver programs, the waiver certification standards no longer apply to county funded homes. To comply with the

Keyes amendment requirements, the Department will need to establish new regulatory standards.

12. Counties have raised concerns that they no longer have the staff and/or the expertise to certify the remaining homes that will serve non-Family Care county clients. Counties reportedly relied on its long term care staff to recruit and regulate AFHs serving non-waiver clients. After the waiver programs sunset, they no longer have the resources to perform this function.
13. It is estimated that counties would retain 3% to 7% (35 to 75) of the existing 1,100 county homes to serve non Family Care clients. This estimate is based on data available on the number of county homes serving people with mental illness.
14. *1-2 bed AFHs serving private-pay clients:* It is assumed that the large majority of AFHs serve residents who are in the care of counties or Family Care MCOs. However, there may be a small number of homes serving exclusively private pay residents. Currently, there is no state or county regulation of these homes; this paper assumes the state would not begin regulating these facilities.
15. The Department proposes a hybrid approach in which DQA would perform an initial certification for 1-2 bed homes which would ensure that the provider meets all life safety code and accessibility standards under the existing waiver standards. DQA would conduct the certification both for homes serving Family Care enrollees and the small number of homes that would continue to serve county clients. DQA would also investigate complaints of health and safety violations in the homes, and revoke certifications for egregious violations. The MCO or county would be responsible for ensuring that the home meets quality standards on an ongoing basis. This option provides independent, though limited, state oversight while retaining the ongoing responsibility with MCOs. DQA
16. It is assumed that the same AFH providers who currently serve county waiver participants will become MCO providers when the participant transitions to Family Care and so would not need to be recertified. However, there would be new certifications resulting from turnover among existing providers. Also the number of AFHs is expected to continue to increase as community living options expand under Family Care. DQA would need to perform initial certifications for any new facilities. DQA would need additional positions and funding to perform any additional workload. Grandfather
17. To perform the initial certification and complaint investigations, DQA would require 5.00 FTE at a cost of \$351,000 AF per year. The cost could be funded with a \$510 initial certification fee that the new provider would pay on a one time basis. This estimate is based on an assumption of 278 initial certifications and 144 complaint investigations performed per year, with each inspection requiring 16 hours of inspection, travel, and processing time. Complaint investigations would average 32 hours to complete. fee
18. One additional consideration is what entity should be responsible for AFH certification in homes that serve a mix of county clients and Family Care participants. A possible solution is to allow either the county and MCO to accept the other's certification for that home

Current Language

There is no current statutory language for 1-2 bed AFH. Three to four bed homes are governed by s.50.033 and s. 50.032.

Proposed Change

Create language that:

- 1) Requires 1 to 2 AFH that serve Family Care enrollees or county clients to be initially certified by the Department, based on standards established by the Department.
- 2) Exempts existing homes that were certified by counties to serve clients in the MA waivers or other county programs from having to be recertified to serve Family Care enrollees or county clients.
- 3) Authorize the Department to investigate complaints and rescind certification for any homes that do not meet certification standards.
- 4) Authorize the Department to charge a fee to cover the cost of the certification.

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

no 46.043(3)(a)2,
no 57.06(1r)(c)1,

✓ Chapter 16 \ Subch. I of Ch. 16 \ 16.009 \ 16.009(1) \ 16.009(1)(em) \ 16.009(1)(em)6.

Chapter 46 \ 46.21 \ 46.21(2) \ 46.21(2)(j)
relates to community living arrangements, adult family homes, foster homes or treatment foster...

X Chapter 46 \ 46.27 \ 46.27(7) \ 46.27(7)(cj) \ 46.27(7)(cj)5.
to the person in an adult family home, as defined in s. 50.01

X Chapter 46 \ 46.27 \ 46.27(11) \ 46.27(11)(c) \ 46.27(11)(c)5m. \ 46.27(11)(c)5m.d.
to the individual in an adult family home, as defined in s. 50.01

X Chapter 46 \ 46.277 \ 46.277(5) \ 46.277(5)(d) \ 46.277(5)(d)1m. \ 46.277(5)(d)1m.d.
to the individual in an adult family home, as defined in s. 50.01

✓ Chapter 46 \ 46.281 \ 46.281(3)
home, community-based residential facility, adult family home and residential care apartment complex...
home, community-based residential facility, adult family home or residential care apartment complex...

✓ Chapter 46 \ 46.283 \ 46.283(4) \ 46.283(4)(e)
homes, community-based residential facilities, adult family homes and residential care apartment complexes...

✓ Chapter 46 \ 46.283 \ 46.283(4) \ 46.283(4)(g)
residential care apartment complex, or adult family home if the secretary has certified.

Chapter 50
50.032 Certification of certain adult family homes...

Chapter 50
50.033 Licensure of certain adult family homes...

Chapter 50 \ Subch. I of Ch. 50 \ 50.01 \ 50.01(1)

1) (intro.) "Adult family home" means one of the following...
of nursing care per resident. "Adult family home" does not include a place...

Chapter 50 \ Subch. I of Ch. 50 \ 50.01 \ 50.01(1g) \ 50.01(1g)(e)
e) An adult family home...

X Chapter 50 \ Subch. I of Ch. 50 \ 50.01 \ 50.01(4m) *operator*
a person who operates an adult family home that is licensed under s.

Chapter 50 \ Subch. I of Ch. 50 \ 50.01 \ 50.01(6) *resident*
community-based residential facility or adult family home, irrespective of how admitted...

✓ Chapter 50 \ Subch. I of Ch. 50 \ 50.02 \ 50.02(1)
certify, inspect and enforce, regulate adult family homes, as specified under s. 50.032 and shall license adult family homes...

Chapter 50 \ Subch. I of Ch. 50 \ 50.02 \ 50.02(2) \ 50.02(2)(am)
following rules with respect to adult family homes:

Chapter 50 \ Subch. I of Ch. 50 \ 50.02 \ 50.02(2) \ 50.02(2)(am) \ 50.02(2)(am)1.
and number of persons in certified adult family homes

*permissive rule -
making - not
affecting*

Chapter 50 \ Subch. I of Ch. 50 \ 50.032
50.032 Certification of certain adult family homes:

Chapter 50 \ Subch. I of Ch. 50 \ 50.032 \ 50.032(1g)
1g) Definition. In this section, "adult family home" has the meaning given in...

Chapter 50 \ Subch. I of Ch. 50 \ 50.032 \ 50.032(1m) \ 50.032(1m)(a)
No person may operate an adult family home unless the adult family home is certified under this section...

Chapter 50 \ Subch. I of Ch. 50 \ 50.032 \ 50.032(1m) \ 50.032(1m)(b)
or 51.437 may certify an adult family home that is located in the...

Chapter 50 \ Subch. I of Ch. 50 \ 50.032 \ 50.032(2)
The department shall certify an adult family home in a county that elects not to certify adult family homes.

Chapter 50 \ Subch. I of Ch. 50 \ 50.032 \ 50.032(2)
Standards for operation of certified adult family homes and procedures for application for...

Chapter 50 \ Subch. I of Ch. 50 \ 50.032 \ 50.032(2m)
50.02(2)(am) 1. An adult family home certification is valid until decertified
an individual served in an adult family home attains 18 years of age and leaves the adult family home on a permanent basis, as...

Chapter 50 \ Subch. I of Ch. 50 \ 50.032 \ 50.032(2r)
by the department, a certified adult family home shall submit an annual report...

Chapter 50 \ Subch. I of Ch. 50 \ 50.032 \ 50.032(4)
operator of the certified adult family home. The department may decertify a certified adult family home for failure to timely...

Chapter 50 \ Subch. I of Ch. 50 \ 50.032 \ 50.032(4)
4) Decertification. A certified adult family home may be decertified because of...

Chapter 50 \ Subch. I of Ch. 50 \ 50.032 \ 50.032(5)
The operator of the certified adult family home shall be given written notice
grounds for the decertification. Any adult family home certification applicant or operator of a certified adult family home may...

Chapter 50 \ Subch. I of Ch. 50 \ 50.032 \ 50.032(5)
enjoy the operation of an adult family home that is not certified under...

Chapter 50 \ Subch. I of Ch. 50 \ 50.033
50.033 Licensure of certain adult family homes

Chapter 50 \ Subch. I of Ch. 50 \ 50.033 \ 50.033(1)
1) Definition. In this section, "adult family home" has the meaning given in...

Chapter 50 \ Subch. I of Ch. 50 \ 50.033 \ 50.033(1m) \ 50.033(1m)(a)
No person may operate an adult family home unless the adult family home is licensed under this section...

Chapter 50 \ Subch. I of Ch. 50 \ 50.033 \ 50.033(1m) \ 50.033(1m)(b)
or 51.437 may license an adult family home that is located in the...

Chapter 50 \ Subch. I of Ch. 50 \ 50.033 \ 50.033(1m) \ 50.033(1m)(b)
The department shall license an adult family home in a county that elects not to license adult family homes...

Chapter 50 \ Subch. I of Ch. 50 \ 50.033 \ 50.033(2)

Standards for operation of licensed adult family homes and procedures for application for
50.02 (2) (am) 2. An adult family home licensure is valid until revoked...
licensure fee for a licensed adult family home is \$135. The fee is...
the county department licenses the adult family home under sub. (1m) (b), and...
if the department licenses the adult family home under sub. (1m) (b).

Chapter 50 \ Subch. I of Ch. 50 \ 50.033 \ 50.033(2m)

by the department, a licensed adult family home shall submit a biennial report.

Chapter 50 \ Subch. I of Ch. 50 \ 50.033 \ 50.033(4)

The license of a licensed adult family home may be revoked because of
The operator of the licensed adult family home shall be given written notice...
grounds for the revocation. Any adult family home licensure applicant or operator of a licensed adult family home may, if aggr...

Chapter 50 \ Subch. I of Ch. 50 \ 50.033 \ 50.033(5)

enjoin the operation of an adult family home that is not licensed under
care and maintenance in an adult family home...

Chapter 50 \ Subch. I of Ch. 50 \ 50.13

provision of service by facilities, adult family homes or residential care apartment complexes.

Chapter 55 \ 55.055 \ 55.055(2) \ 55.055(2)(a) \ 55.055(2)(a)4.

4. An adult family home, as defined in s. 50.01

Chapter 59 \ Subch. VII of Ch. 59 \ 59.69 \ 59.69(15)

s. 48.02 (17g); or an adult family home, as defined in s. 50.01...

Chapter 59 \ Subch. VII of Ch. 59 \ 59.69 \ 59.69(15) \ 59.69(15)(bm)

under s. 48.62 or an adult family home certified under s. 50.032 (1m...

Chapter 59 \ Subch. VII of Ch. 59 \ 59.69 \ 59.69(15) \ 59.69(15)(br) \ 59.69(15)(br)1.

1. No adult family home described in s. 50.01 (1...
the municipality, of any other adult family home described in s. 50.01 (1...
arrangement. An agent of an adult family home described in s. 50.01 (1...

Chapter 59 \ Subch. VII of Ch. 59 \ 59.69 \ 59.69(15) \ 59.69(15)(br) \ 59.69(15)(br)2.

2. An adult family home described in s. 50.01 (1...
as to the number of adult family homes and may locate in any...

Chapter 59 \ Subch. VII of Ch. 59 \ 59.69 \ 59.69(15) \ 59.69(15)(i)

the first licensure of an adult family home under s. 50.033 or of...
municipality in which a licensed adult family home or a community living arrangement...
to the effect of the adult family home or community living arrangement on...
the municipality of a licensed adult family home or a community living arrangement...
town board may order the adult family home or community living arrangement to...
be provided to the licensed adult family home or community living arrangement. The licensed adult family home or communiti...

Chapter 59 \ Subch. VII of Ch. 59 \ 59.69 \ 59.69(15) \ 59.69(15)(j)

days' notice to the licensed adult family home or the community living arrangement...
At the hearing, the licensed adult family home or the community living arrangement...
upon request of the licensed adult family home or the community living arrangement...
shall deliver to the licensed adult family home or the community living arrangement

Chapter 60 \ Subch. VIII of Ch. 60 \ 60.63

s. 48.02 (17g); or an adult family home, as defined in s. 50.01...

Chapter 60 \ Subch. VIII of Ch. 60 \ 60.63 \ 60.63(3)

under s. 48.62 or an adult family home certified under s. 50.032 (1m

Chapter 60 \ Subch. VIII of Ch. 60 \ 60.63 \ 60.63(3m) \ 60.63(3m)(a)

a) No adult family home described in s. 50.01 (1...
the town, of any other adult family home described in s. 50.01 (1...
arrangement. An agent of an adult family home described in s. 50.01 (1

Chapter 60 \ Subch. VIII of Ch. 60 \ 60.63 \ 60.63(3m) \ 60.63(3m)(b)

b) An adult family home described in s. 50.01 (1...
as to the number of adult family homes and may locate in any...

Chapter 60 \ Subch. VIII of Ch. 60 \ 60.63 \ 60.63(10)

the first licensure of an adult family home under s. 50.033 or of...
town in which a licensed adult family home or a community living arrangement...
to the effect of the adult family home or community living arrangement on...
the town of a licensed adult family home or a community living arrangement...
town board may order the adult family home or community living arrangement to...
be provided to the licensed adult family home or community living arrangement. The licensed adult family home or community...

Chapter 60 \ Subch. VIII of Ch. 60 \ 60.63 \ 60.63(11)

days' notice to the licensed adult family home or the community living arrangement...
At the hearing, the licensed adult family home or the community living arrangement...
upon request of the licensed adult family home or the community living arrangement...
shall deliver to the licensed adult family home or the community living arrangement.

Chapter 62 \ Subch. I of Ch. 62 \ 62.23 \ 62.23(7) \ 62.23(7)(i)

s. 48.02 (17g); or an adult family home, as defined in s. 50.01...

Chapter 62 \ Subch. I of Ch. 62 \ 62.23 \ 62.23(7) \ 62.23(7)(i) \ 62.23(7)(i)2m.

under s. 48.62 or an adult family home certified under s. 50.032 (1m

Chapter 62 \ Subch. I of Ch. 62 \ 62.23 \ 62.23(7) \ 62.23(7)(i) \ 62.23(7)(i)2r. \ 62.23(7)(i)2r.a.

a. No adult family home described in s. 50.01 (1) the city, of any other adult family home described in s. 50.01 (1) arrangement. An agent of an adult family home described in s. 50.01 (1)...

Chapter 62 \ Subch. I of Ch. 62 \ 62.23 \ 62.23(7) \ 62.23(7)(i) \ 62.23(7)(i)2r. \ 62.23(7)(i)2r.b.

b. An adult family home described in s. 50.01 (1) as to the number of adult family homes and may locate in any...

Chapter 62 \ Subch. I of Ch. 62 \ 62.23 \ 62.23(7) \ 62.23(7)(i) \ 62.23(7)(i)9.

the first licensure of an adult family home under s. 50.033 or of city in which a licensed adult family home or a community living arrangement... to the effect of the adult family home or community living arrangement on... the city of a licensed adult family home or a community living arrangement... common council may order the adult family home or community living arrangement to... not be provided to the adult family home or community living arrangement. The adult family home or community living arrange...

Chapter 62 \ Subch. I of Ch. 62 \ 62.23 \ 62.23(7) \ 62.23(7)(i) \ 62.23(7)(i)10.

...days' notice to the licensed adult family home or the community living arrangement... At the hearing, the licensed adult family home or the community living arrangement... upon request of the licensed adult family home or the community living arrangement... or deliver to the licensed adult family home or the community living arrangement...

Chapter 101 \ Subch. I of Ch. 101 \ 101.01 \ 101.01(11)

employment" does not include an adult family home, as defined in s. 50.01...

Chapter 101 \ Subch. I of Ch. 101 \ 101.01 \ 101.01(12)

operator or administrator of an adult family home, as defined in s. 50.01

Chapter 452 \ 452.23 \ 452.23(2) \ 452.23(2)(c)

c. The location of any adult family home, as defined in s. 50.01...

Chapter 563

senior citizen community centers and adult family homes...

Chapter 563

senior citizen community centers and adult family homes...

Chapter 563 \ Subch. I of Ch. 563 \ 563.03 \ 563.03(1)

1) "Adult family home" has the meaning given in

Chapter 563 \ Subch. III of Ch. 563 \ 563.11 \ 563.11(1) \ 563.11(1)(d)

d) An adult family home...

Chapter 563 \ Subch. III of Ch. 563 \ 563.135

senior citizen community centers and adult family homes

Chapter 563 \ Subch. III of Ch. 563 \ 563.135 \ 563.135(1) \ 563.135(1)(a)

community-based residential facility or adult family home, or members, patrons, guests of...

Chapter 563 \ Subch. V of Ch. 563 \ 563.69

senior citizen community centers and adult family homes. This subchapter does not apply...

Chapter 610 \ 610.70 \ 610.70(1) \ 610.70(1)(e)

hospital, county mental health center, adult family home, assisted living facility, rural medical...

Chapter 940 \ Subch. II of Ch. 940 \ 940.295 \ 940.295(1) \ 940.295(1)(am)

am) "Adult family home" has the meaning given in

Chapter 940 \ Subch. II of Ch. 940 \ 940.295 \ 940.295(2) \ 940.295(2)(b)

b) An adult family home

b. 150



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0659/2

RLR:.....

WJ

In 11/17/08

DOA:.....Sabrina Fox, BB0193 - Adult Family Homes

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

RMR
D-N

Do Not Gen

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

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

2 SECTION 1. 16.009 (1) (em) 6. of the statutes is amended to read:

3 16.009 (1) (em) 6. An adult family home, as defined in s. 50.01 (1) (a) or (b).

History: 1981 c. 20; 1983 a. 524; 1985 a. 29; 1987 a. 27; 1989 a. 31, 294; 1991 a. 39, 232; 1993 a. 16, 205; 1995 a. 27 s. 9126 (19); 1997 a. 131; 1999 a. 9, 82, 86, 186; 2003 a. 33; 2007 a. 20 ss. 74, 9121 (6) (a).

4 SECTION 2. 46.281 (3) of the statutes is amended to read:

5 46.281 (3) DUTY OF THE SECRETARY. The secretary shall certify to each county,
6 hospital, nursing home, community-based residential facility, adult family home, as
7 defined in s. 50.01 (1) (a) or (b), and residential care apartment complex the date on
8 which a resource center that serves the area of the county, hospital, nursing home,

1 community-based residential facility, adult family home or residential care
2 apartment complex is first available to perform functional screenings and financial
3 and cost-sharing screenings. To facilitate phase-in of services of resource centers,
4 the secretary may certify that the resource center is available for specified groups of
5 eligible individuals or for specified facilities in the county.

6 History: 1999 a. 9; 2001 a. 103; 2005 a. 25, 386; 2007 a. 20.

6 SECTION 3. 46.283 (4) (e) of the statutes is amended to read:

7 46.283 (4) (e) Provide information about the services of the resource center,
8 including the services specified in sub. (3) (d), about assessments under s. 46.284 (4)
9 (b) and care plans under s. 46.284 (4) (c) and about the family care benefit to all older
10 persons and persons with a physical disability who are residents of nursing homes,
11 community-based residential facilities, adult family homes, as defined in s. 50.01 (1)
12 (a) or (b), and residential care apartment complexes in the area of the resource center.

13 History: 1999 a. 9; 2001 a. 16, 103; 2003 a. 33; 2005 a. 25, 254, 264, 386, 388; 2007 a. 20 ss. 969, 971 to 973, 976, 978 to 991.

13 SECTION 4. 46.283 (4) (g) of the statutes is amended to read:

14 46.283 (4) (g) Perform a functional screening and a financial and cost-sharing
15 screening for any person seeking admission to a nursing home, community-based
16 residential facility, residential care apartment complex, or adult family home, as
17 defined in s. 50.01 (1) (a) or (b), if the secretary has certified that the resource center
18 is available to the person and the facility and the person is determined by the
19 resource center to have a condition that is expected to last at least 90 days that would
20 require care, assistance, or supervision. A resource center may not require a
21 financial and cost-sharing screening for a person seeking admission or about to be
22 admitted on a private pay basis who waives the requirement for a financial and
23 cost-sharing screening under this paragraph, unless the person is expected to
24 become eligible for medical assistance within 6 months. A resource center need not

1 perform a functional screening for a person seeking admission or about to be
 2 admitted for whom a functional screening was performed within the previous 6
 3 months.

History: 1999 a. 9; 2001 a. 16, 103; 2003 a. 33; 2005 a. 25, 254, 264, 386, 388; 2007 a. 20 ss. 969, 971 to 973, 976, 978 to 991.

4 **SECTION 5. 50.01 (1) (intro.)** of the statutes is amended to read:

5 50.01 (1) (intro.) "Adult family home" means one of the following and does not
 6 include a place that is specified in sub. (1g) (a) to (d), (f), or (g):

History: 1975 c. 413; 1977 c. 170, 418; 1979 c. 111; 1983 a. 189 s. 329 (18); 1985 a. 29, 276; 1985 a. 332 s. 251 (1); 1987 a. 127, 161; 1989 a. 31, 136, 199; 1991 a. 39; 1993 a. 327, 446, 491; 1995 a. 27; 1997 a. 13, 27, 156, 237; 1999 a. 22, 32; 2001 a. 74, 107; 2003 a. 33; 2005 a. 187; 2007 a. 20, 153.

7 **SECTION 6. 50.01 (1) (b)** of the statutes is amended to read:

8 50.01 (1) (b) A place where 3 or 4 adults who are not related to the operator
 9 reside and receive care, treatment or services that are above the level of room and
 10 board and that may include up to 7 hours per week of nursing care per resident.
 11 ~~"Adult family home" does not include a place that is specified in sub. (1g) (a) to (d),~~
 12 ~~(f) or (g).~~

History: 1975 c. 413; 1977 c. 170, 418; 1979 c. 111; 1983 a. 189 s. 329 (18); 1985 a. 29, 276; 1985 a. 332 s. 251 (1); 1987 a. 127, 161; 1989 a. 31, 136, 199; 1991 a. 39; 1993 a. 327, 446, 491; 1995 a. 27; 1997 a. 13, 27, 156, 237; 1999 a. 22, 32; 2001 a. 74, 107; 2003 a. 33; 2005 a. 187; 2007 a. 20, 153.

13 **SECTION 7. 50.01 (1) (c)** of the statutes is created to read:

14 50.01 (1) (c) A private residence in which care, treatment, support, or service
 15 above the level of room and board, but not including nursing care, is provided to up
 16 to 2 adults by the operator, whose primary domicile is the residence.

17 **SECTION 8. 50.02 (1)** of the statutes is amended to read:

18 50.02 (1) DEPARTMENTAL AUTHORITY. The department may provide uniform,
 19 statewide licensing, inspection, and regulation of community-based residential
 20 facilities and nursing homes as provided in this subchapter. The department shall
 21 certify, inspect, and otherwise regulate adult family homes, as specified under s. ss.
 22 50.031 and 50.032 and shall license adult family homes, as specified under s. 50.033.
 23 Nothing in this subchapter may be construed to limit the authority of the department

1 of commerce or of municipalities to set standards of building safety and hygiene, but
 2 any local orders of municipalities shall be consistent with uniform, statewide
 3 regulation of community-based residential facilities. The department may not
 4 prohibit any nursing home from distributing over-the-counter drugs from bulk
 5 supply. The department may consult with nursing homes as needed and may provide
 6 specialized consultations when requested by any nursing home, separate from its
 7 inspection process, to scrutinize any particular questions the nursing home raises.
 8 The department shall, by rule, define "specialized consultation".

History: 1971 c. 125, 161; 1973 c. 122, 323, 327, 333; 1975 c. 119, 260; 1975 c. 413 ss. 5 to 8; 1977 c. 29, 170, 418; 1981 c. 20, 121, 391; 1983 a. 542; 1985 a. 29; 1987 a. 161; 1989 a. 336; 1991 a. 250; 1993 a. 16, 327; 1995 a. 27 ss. 3222 to 3225, 9116 (5); 1995 a. 98; 1997 a. 237; 1999 a. 9, 103; 2005 a. 264, 387; 2007 a. 20.

9 **SECTION 9.** 50.031 of the statutes is created to read:

10 **50.031 Certification of 1-bed and 2-bed adult family homes. (1)**

11 DEFINITION. In this section, "adult family home" has the meaning given in s. 50.01
 12 (1) (c). ✓

13 (2) CERTIFICATION. (a) Except as provided in par. (b), ✓ no person may operate
 14 an adult family home that provides residential care to a recipient of supplemental
 15 security income under 42 USC 1381 to 1383c, a recipient of the family care benefit
 16 under ^{s.} 46.286, or a recipient of services under s. 46.27 (11), 46.275, 46.277, 46.278,
 17 or 46.2785 unless the person is certified by the department under this section. An
 18 adult family home certification issued by the department under this section is valid
 19 until revoked by the department.

20 (b) An adult family home that was certified by a county department before the
 21 effective date of this ^{paragraph} ~~section~~ ^{LRB} ~~revisor~~ inserts date], to receive payment for
 22 residential care under s. 46.27 (11), 46.275, 46.277, 46.278, or 46.2785 is not required
 23 to be certified under this section.

Not The department shall certify an adult family home that satisfies standards established under subo (3) Certification under this paragraph shall be valid. ΔΔ =

CRITERIA

Standards

1 (3) STANDARDS. The department shall establish criteria for certification under
2 this section.

3 (4) INVESTIGATION. The department may investigate complaints that an adult
4 family home certified under this section violated a criteria for certification under sub.
5 (3). *standard*

6 (5) REVOCATION. The department may revoke the certification of an adult
7 family home that is certified under this section if the adult family home violates a
8 standard established under sub. (3).

9 (6) FEE. The department may charge a fee for certification ^{under 2} / sub. (1) (a).

10 SECTION 10. 59.69 (15) (intro.) of the statutes is amended to read:

11 59.69 (15) COMMUNITY AND OTHER LIVING ARRANGEMENTS. (intro.) For purposes
12 of this section, the location of a community living arrangement for adults, as defined
13 in s. 46.03 (22), a community living arrangement for children, as defined in s. 48.743
14 (1), a foster home, as defined in s. 48.02 (6), a treatment foster home, as defined in
15 s. 48.02 (17q), or an adult family home, as defined in s. 50.01 (1) (a) or (b), in any
16 municipality, shall be subject to the following criteria:

History: 1971 c. 40 s. 93; 1971 c. 86, 224; 1973 c. 274; 1977 c. 205; 1979 c. 233 ss. 2 to 5, 7 and 8; 1979 c. 323; 1981 c. 341, 354, 374; 1983 a. 192 s. 303 (1); 1983 a. 410; 1983 a. 532 s. 36; 1985 a. 29, 136, 196, 281, 316; 1987 a. 161, 395; 1989 a. 80, 201; 1991 a. 255, 269, 316; 1993 a. 16, 27, 246, 327, 400, 446, 491; 1995 a. 27 ss. 9130 (4), 9126 (19); 1995 a. 201 s. 475; Stats. 1995 s. 59.69; 1995 a. 225 s. 174; 1995 a. 227; 1997 a. 3, 35; 1999 a. 9, 148, 185; 2001 a. 16, 30, 50, 105; 2003 a. 214; 2005 a. 26, 79, 81, 112, 171, 208; 2007 a. 11; 2007 a. 20 ss. 1852 to 1857, 9121 (6) (a).

17 SECTION 11. 60.63 (intro.) of the statutes is amended to read:

18 60.63 Community and other living arrangements. (intro.) For purposes
19 of s. 60.61, the location of a community living arrangement for adults, as defined in
20 s. 46.03 (22), a community living arrangement for children, as defined in s. 48.743
21 (1), a foster home, as defined in s. 48.02 (6), a treatment foster home, as defined in

1 s. 48.02 (17q), or an adult family home, as defined in s. 50.01 (1) (a) or (b), in any town
2 shall be subject to the following criteria:

History: 1983 a. 532; 1985 a. 281; 1987 a. 161; 1989 a. 56, 201; 1993 a. 27, 327, 446, 491; 1995 a. 27 s. 9126 (19); 1995 a. 225, 417; 2007 a. 20 ss. 1861 to 1866, 9121 (6)

3 **SECTION 12. 62.23 (7) (i)** (intro.) of the statutes is amended to read:

4 **62.23 (7) (i) Community and other living arrangements.** (intro.) For purposes
5 of this section, the location of a community living arrangement for adults, as defined
6 in s. 46.03 (22), a community living arrangement for children, as defined in s. 48.743
7 (1), a foster home, as defined in s. 48.02 (6), a treatment foster home, as defined in
8 s. 48.02 (17q), or an adult family home, as defined in s. 50.01 (1) (a) or (b), in any city
9 shall be subject to the following criteria:

History: 1973 c. 60; 1975 c. 281; 1977 c. 205; 1979 c. 221, 355; 1981 c. 289, 341, 354, 374; 1983 a. 49, 410; 1985 a. 136 ss. 7 to 9, 10; 1985 a. 187, 225, 281, 316; 1987
a. 161, 395; 1989 a. 201; 1991 a. 255, 316; 1993 a. 27, 184, 301, 327, 400, 446, 471, 490, 491; 1995 a. 27 ss. 9126 (19), 9130 (4); 1995 a. 225; 1997 a. 3, 35, 246; 1999 a. 9,
148; 1999 a. 150 s. 672; 2001 a. 30 ss. 16, 17, 108; 2001 a. 50; 2005 a. 26, 34, 79, 81, 112, 171, 208; 2007 a. 20 ss. 1868 to 1873, 9121 (6) (a); 2007 a. 72.

10 **SECTION 13. 563.03 (1)** of the statutes is amended to read:

11 **563.03 (1) "Adult family home"** has the meaning given in s. 50.01 (1) (a) or (b).

History: 1973 c. 156; 1975 c. 99; 1977 c. 426; 1979 c. 32, 34; 1983 a. 222; 1989 a. 147; 1991 a. 269 ss. 779s to 779w; Stats. 1991 s. 563.03; 1997 a. 27; 2005 a. 247.

12 **(END)**

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0659/?dn
RLR:.....

A
Wlj

Date

Sabrina Fox:

1. Please review the definition of a one-bed or two-bed adult family home under proposed s. 50.01 (1) (c)?

2. Does the language under proposed s. 50.031 (2) (a) accurately describe which one-bed and two-bed adult family homes must be certified? As drafted, if a person allows an adult family member who is a recipient of services under a waiver program to live in his or her home, the person must become certified as an adult family home even if the waiver program provides no reimbursement to the person. Is this as intended? Also, please note that one-bed and two-bed adult family homes that serve recipients of the GPR-funded Community Options Program do not need to be certified. Is this intended?

3. The draft makes an exception from the state certification requirement for homes that were certified by a county. Should the exception apply to any home that was ever certified by a county or should the exception be more limited, for example to homes that are active on the effective date of the draft or to homes that were certified by a county within a specified number of years before the effective date of the draft?

4. The draft does not authorize DHS to investigate or decertify ^{any} ~~an~~ one-bed or two-bed adult family home that is certified by a county. Should it?

5. Do you want to require that DHS promulgate an administrative rule establishing the certification criteria for one-bed and two-bed adult family homes?

6. References to "adult family homes" outside ch. 50:

a. Should the long-term care ombudsman have access to one-bed and two-bed adult family homes? Under this draft, the ombudsman does not. (s. 16.009)

b. Current law requires the Secretary of Health Services to notify adult family homes in a county when family care is implemented in the county. This draft does not extend the notification requirement to one-bed and two-bed adult family homes. (s. 46.281)

c. Please review the treatment of s. 59.69 (1) (intro.), 60.63 (intro.), and 62.23 (7) (i) (intro.). This bill excludes one-bed and two-bed adult family homes from the definition of "community living arrangements" for the purpose of zoning provisions.

d. The draft excludes one-bed and two-bed adult family homes from the definition of service organizations that may obtain a bingo license.

e. Current law s. 940.295 imposes criminal penalties for abuse or neglect of a patient or resident of an adult family home. This draft extends the application of s. 940.295 to patients and residents of one-bed and two-bed adult family homes. Should s. 940.295 apply to abuse or neglect of a resident who is not a patient in the home?

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0659/P1dn
RLR:wlj:jf

December 2, 2008

Sabrina Fox:

1. Please review the definition of a one-bed or two-bed adult family home under proposed s. 50.01 (1) (c).
2. Does the language under proposed s. 50.031 (2) (a) accurately describe which one-bed and two-bed adult family homes must be certified? As drafted, if a person allows an adult family member who is a recipient of services under a waiver program to live in his or her home, the person must become certified as an adult family home even if the waiver program provides no reimbursement to the person. Is this as intended? Also, please note that one-bed and two-bed adult family homes that serve recipients of the GPR-funded Community Options Program do not need to be certified. Is this intended?
3. The draft makes an exception from the state certification requirement for homes that were certified by a county. Should the exception apply to any home that was ever certified by a county or should the exception be more limited, for example, to homes that are active on the effective date of the draft or to homes that were certified by a county within a specified number of years before the effective date of the draft?
4. The draft does not authorize DHS to investigate or decertify any one-bed or two-bed adult family home that is certified by a county. Should it?
5. Do you want to require that DHS promulgate an administrative rule establishing the certification criteria for one-bed and two-bed adult family homes?
6. References to "adult family homes" outside ch. 50:
 - a. Should the long-term care ombudsman have access to one-bed and two-bed adult family homes? Under this draft, the ombudsman does not. (s. 16.009)
 - b. Current law requires the secretary of health services to notify adult family homes in a county when family care is implemented in the county. This draft does not extend the notification requirement to one-bed and two-bed adult family homes. (s. 46.281)
 - c. Please review the treatment of ss. 59.69 (15) (intro.), 60.63 (intro.), and 62.23 (7) (i) (intro.). This bill excludes one-bed and two-bed adult family homes from the definition of "community living arrangements" for the purpose of zoning provisions.

d. The draft excludes one-bed and two-bed adult family homes from the definition of "service organizations" that may obtain a bingo license.

e. Current law s. 940.295 imposes criminal penalties for abuse or neglect of a patient or resident of an adult family home. This draft extends the application of s. 940.295 to patients and residents of one-bed and two-bed adult family homes. Should s. 940.295 apply to abuse or neglect of a resident who is not a patient in the home?

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

Ryan, Robin

From: Fox, Sabrina E - DOA [Sabrina.Fox@wisconsin.gov]
Sent: Thursday, January 08, 2009 10:09 AM
To: Ryan, Robin
Subject: FW: Adult family homes
Attachments: 09-0659P1.pdf

Hi Robin:

Please see the Department's requested changes regarding the Adult Family Homes draft stat language. It is my understanding that DHS would set the fee by administrative rule. Please let me know if you have any questions or concerns with any of their requests.

Thanks!
 Sabrina

From: Forsaith, Andrew C - DHS
Sent: Thursday, January 08, 2009 9:11 AM
To: Fox, Sabrina E - DOA
Cc: Pancook, Michael J - DHS; Megna, Richard H - DHS; Walters, Jane A - DHS; Bove, Fredi-Ellen E - DHS; Coughlin, Kevin J - DHS
Subject: RE: Adult family homes

Sabrina -- thanks for allowing us more time to review the draft. Here are our proposed changes:

- ✓ 1. We would ask that the new state certification requirements become effective in each county only when the Family Care benefit begins to be offered in that county. The new certification system is intended to replace the current process of counties certifying 1-2 AFHs for participants in Medicaid waiver programs. Therefore, we would like to keep the old system intact in counties that have yet to implement FC, and still have MA waiver programs operating. Once they implement FC, the state certification process would kick in.
- ✓ 2. S. 50.031(2)(b), created by the draft, exempts existing county certified 1-2 AFHs from the new state certification requirements. We would like this paragraph modified to have these homes, if they remain at their existing locations, deemed to be certified rather than exempted from the state requirements. We ask for this change because we want the Department to have the authority to investigate complaints and revoke certification for homes in Family Care counties, including those that were previously county certified. We don't, however, want the existing homes to go through the full certification process.
- ✓ 3. While existing homes would not need to go through a full certification process, we would like to insert language in the draft that requires existing county certified homes to attest that they have in fact been previously certified by their county and that they currently meet certification requirements. With these attestations, the division of quality assurance will be able to build a database of existing providers. The Division of Quality Assurance needs this database to know the full universe of 1-2 bed providers that they have oversight of, to differentiate between "grandfathered" and new providers, and to initiate investigations as needed. The Department's goal will be to make this attestation process as streamlined and "un-burdensome" as possible for both the provider and DQA.
- ✓ 4. We would like to modify s. 50.031(6) to allow DHS to charge a fee for the initial attestation process described above. Also, we would need authority to deposit the fee revenue in the appropriation under s.20.435(6)(jm).

Thanks for considering these comments, and please let me know if you have any questions.

From: Pancook, Michael J - DHS

01/08/2009

Sent: Wednesday, December 17, 2008 3:36 PM
To: Forsaith, Andrew C - DHS
Subject: FW: Adult family homes

Andy-

Attached is LRB's draft of the stat change for Adult Family homes. Not sure who worked on this and should review it.

Michael

Michael Pancook
Budget and Policy Analyst
Office of Policy Initiatives and Budget
Wisconsin Department of Health Services
608 266-9364
Michael.Pancook@dhfs.wisconsin.gov

NOTICE: This email and any attachments may contain confidential information. Use and further disclosure of the information by the recipient must be consistent with applicable 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.

From: Fox, Sabrina E - DOA
Sent: Wednesday, December 17, 2008 2:34 PM
To: Pancook, Michael J - DHS
Subject: FW: Adult family homes

Hi Michael:
Please see the attached draft language. Let me know if there are any changes you feel should be made to more accurately reflect the intent of your request.

I will be sending over to additional items following this e-mail.

Thanks,
Sabrina

From: Ryan, Robin [mailto:Robin.Ryan@legis.wisconsin.gov]
Sent: Tuesday, December 16, 2008 11:40 AM
To: Fox, Sabrina E - DOA
Subject: Adult family homes



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0659/PI

RLR:wlj:jf

pa
stays

In 1/23/09

DOA:.....Sabrina Fox, BB0193 - Adult Family Homes

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

RMT

D-N

DoNot Gen

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

Analysis by the Legislative Reference Bureau

INS Analysis ->

This is a preliminary draft. An analysis will be provided in a later version.

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

2 SECTION 1. 16.009 (1) (em) 6. of the statutes is amended to read:
3 16.009 (1) (em) 6. An adult family home, as defined in s. 50.01 (1) (a) or (b).
4 SECTION 2. 46.281 (3) of the statutes is amended to read:
5 46.281 (3) DUTY OF THE SECRETARY. The secretary shall certify to each county,
6 hospital, nursing home, community-based residential facility, adult family home, as
7 defined in s. 50.01 (1) (a) or (b), and residential care apartment complex the date on
8 which a resource center that serves the area of the county, hospital, nursing home,
9 community-based residential facility, adult family home, or residential care

1 apartment complex is first available to perform functional screenings and financial
2 and cost-sharing screenings. To facilitate phase-in of services of resource centers,
3 the secretary may certify that the resource center is available for specified groups of
4 eligible individuals or for specified facilities in the county.

INS
2-4 →
5 **SECTION 3.** 46.283 (4) (e) of the statutes is amended to read:

6 46.283 (4) (e) Provide information about the services of the resource center,
7 including the services specified in sub. (3) (d), about assessments under s. 46.284 (4)
8 (b) and care plans under s. 46.284 (4) (c), and about the family care benefit to all older
9 persons and persons with a physical disability who are residents of nursing homes,
10 community-based residential facilities, adult family homes, as defined in s. 50.01 (1)
11 (a) or (b), and residential care apartment complexes in the area of the resource center.

12 **SECTION 4.** 46.283 (4) (g) of the statutes is amended to read:

13 46.283 (4) (g) Perform a functional screening and a financial and cost-sharing
14 screening for any person seeking admission to a nursing home, community-based
15 residential facility, residential care apartment complex, or adult family home, as
16 defined in s. 50.01 (1) (a) or (b), if the secretary has certified that the resource center
17 is available to the person and the facility and the person is determined by the
18 resource center to have a condition that is expected to last at least 90 days that would
19 require care, assistance, or supervision. A resource center may not require a
20 financial and cost-sharing screening for a person seeking admission or about to be
21 admitted on a private pay basis who waives the requirement for a financial and
22 cost-sharing screening under this paragraph, unless the person is expected to
23 become eligible for medical assistance within 6 months. A resource center need not
24 perform a functional screening for a person seeking admission or about to be

1 admitted for whom a functional screening was performed within the previous 6
2 months.

3 **SECTION 5.** 50.01 (1) (intro.) of the statutes is amended to read:

4 50.01 (1) (intro.) "Adult family home" means one of the following and does not
5 include a place that is specified in sub. (1g) (a) to (d), (f), or (g):

6 **SECTION 6.** 50.01 (1) (b) of the statutes is amended to read:

7 50.01 (1) (b) A place where 3 or 4 adults who are not related to the operator
8 reside and receive care, treatment or services that are above the level of room and
9 board and that may include up to 7 hours per week of nursing care per resident.
10 ~~"Adult family home" does not include a place that is specified in sub. (1g) (a) to (d),~~
11 ~~(f) or (g).~~

12 **SECTION 7.** 50.01 (1) (c) of the statutes is created to read:

13 50.01 (1) (c) A private residence in which care, treatment, support, or service
14 above the level of room and board, but not including nursing care, is provided to up
15 to 2 adults by the operator, whose primary domicile is the residence.

16 **SECTION 8.** 50.02 (1) of the statutes is amended to read:

17 50.02 (1) DEPARTMENTAL AUTHORITY. The department may provide uniform,
18 statewide licensing, inspection, and regulation of community-based residential
19 facilities and nursing homes as provided in this subchapter. The department shall
20 certify, inspect, and otherwise regulate adult family homes, as specified under s. ~~s.~~ ss.
21 50.031 and 50.032 and shall license adult family homes, as specified under s. 50.033.
22 Nothing in this subchapter may be construed to limit the authority of the department
23 of commerce or of municipalities to set standards of building safety and hygiene, but
24 any local orders of municipalities shall be consistent with uniform, statewide
25 regulation of community-based residential facilities. The department may not

1 prohibit any nursing home from distributing over-the-counter drugs from bulk
2 supply. The department may consult with nursing homes as needed and may provide
3 specialized consultations when requested by any nursing home, separate from its
4 inspection process, to scrutinize any particular questions the nursing home raises.
5 The department shall, by rule, define "specialized consultation".

6 **SECTION 9.** 50.031 of the statutes is created to read:

7 **50.031 Certification of 1-bed and 2-bed adult family homes. (1)**

8 DEFINITION. In this section, "adult family home" has the meaning given in s. 50.01

9 (1) (c).

10 **(2) CERTIFICATION.** (a) Except as provided in par. (b), no person may operate
11 an adult family home that provides residential care to a recipient of supplemental
12 security income under 42 USC 1381 to 1383c, a recipient of the family care benefit
13 under s. 46.286, or a recipient of services under s. 46.27 (11), 46.275, 46.277, 46.278,
14 or 46.2785 unless the person is certified by the department under this section. The
15 department shall certify an adult family home that satisfies standards established
16 under sub. (3). Certification under this paragraph shall be valid until revoked by the
17 department.

18 (b) An adult family home that was certified by a county department before the
19 effective date of this paragraph [LRB inserts date], to receive payment for
20 residential care under s. 46.27 (11), 46.275, 46.277, 46.278, or 46.2785 is not required
21 to be certified under this section.

22 **(3) STANDARDS.** The department shall establish standards for certification
23 under this section.

1 **(4) INVESTIGATION.** The department may investigate complaints that an adult
2 family home certified under this section violated a standard for certification under
3 sub. (3).

4 **(5) REVOCATION.** The department may revoke the certification of an adult
5 family home that is certified under this section if the adult family home violates a
6 standard established under sub. (3).

7 **(6) FEE.** The department may charge a fee for certification under sub. (2) (a).

8 **SECTION 10.** 59.69 (15) (intro.) of the statutes is amended to read:

9 **59.69 (15) COMMUNITY AND OTHER LIVING ARRANGEMENTS.** (intro.) For purposes
10 of this section, the location of a community living arrangement for adults, as defined
11 in s. 46.03 (22), a community living arrangement for children, as defined in s. 48.743
12 (1), a foster home, as defined in s. 48.02 (6), a treatment foster home, as defined in
13 s. 48.02 (17q), or an adult family home, as defined in s. 50.01 (1) (a) or (b), in any
14 municipality, shall be subject to the following criteria:

15 **SECTION 11.** 60.63 (intro.) of the statutes is amended to read:

16 **60.63 Community and other living arrangements.** (intro.) For purposes
17 of s. 60.61, the location of a community living arrangement for adults, as defined in
18 s. 46.03 (22), a community living arrangement for children, as defined in s. 48.743
19 (1), a foster home, as defined in s. 48.02 (6), a treatment foster home, as defined in
20 s. 48.02 (17q), or an adult family home, as defined in s. 50.01 (1) (a) or (b), in any town
21 shall be subject to the following criteria:

22 **SECTION 12.** 62.23 (7) (i) (intro.) of the statutes is amended to read:

23 **62.23 (7) (i) Community and other living arrangements.** (intro.) For purposes
24 of this section, the location of a community living arrangement for adults, as defined
25 in s. 46.03 (22), a community living arrangement for children, as defined in s. 48.743

and a fee for certification under sub. (2)(a)(b)

1 (1), a foster home, as defined in s. 48.02 (6), a treatment foster home, as defined in
2 s. 48.02 (17q), or an adult family home, as defined in s. 50.01 (1) (a) or (b), in any city
3 shall be subject to the following criteria:

4 **SECTION 13.** 563.03 (1) of the statutes is amended to read:

5 563.03 (1) "Adult family home" has the meaning given in s. 50.01 (1) (a) or (b).

6 (END)

1 **Ins Analysis:**

HEALTH AND HUMAN SERVICES

MEDICAL ASSISTANCE

* Under current law, DHS regulates various types of long-term care providers, including three- and four-bed adult family homes.

* This bill requires DHS to regulate one- and two-bed adult family homes. Under the bill, DHS must establish certification standards for one- and two-bed adult family homes. The bill provides that after the Family Care Program is implemented in a county, one- and two-bed adult family homes may not provide services for a person who is a recipient of services under Family Care, a community-based long-term care MA waiver program, or Supplemental Security Income unless the home is certified by DHS. Under the bill, DHS must certify one- and two-bed adult family homes upon determining that they satisfy DHS's certification standards. In addition, DHS must certify ① and ②-bed adult family homes that were certified by a county and attest that they satisfy the certification standards established by DHS. DHS may impose fees for certification. In addition DHS may inspect ①- and ②-bed adult family homes and revoke their certification for failure to satisfy certification standards.

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4 **Ins 2-4:**

5 **SECTION 1.** 20.435 (6) (jm) of the statutes is amended to read:

6 20.435 (6) (jm) *Licensing and support services.* The amounts in the schedule
7 for the purposes specified in ss. 48.685 (2) (am) and (b) 1., (3) (a) and (b), and (5) (a),
8 49.45 (47), 50.02 (2), 50.025, 50.031, 50.065 (2) (am) and (b) 1., (3) (a) and (b), and (5),
9 50.13, 50.135, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57, 50.981, and 146.40
10 (4r) (b) and (er), and subch. IV of ch. 50 and to conduct health facilities plan and rule
11 development activities, for accrediting nursing homes, convalescent homes, and
12 homes for the aged, to conduct capital construction and remodeling plan reviews
13 under ss. 50.02 (2) (b) and 50.36 (2), and for the costs of inspecting, licensing or
14 certifying, and approving facilities, issuing permits, and providing technical

1 assistance, that are not specified under any other paragraph in this subsection. All
 2 moneys received under ss. 48.685 (8), 49.45 (47) (c), 50.02 (2), 50.025, 50.031 (6),
 3 50.065 (8), 50.13, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57, 50.93 (1) (c), and
 4 50.981, all moneys received from fees for the costs of inspecting, licensing or
 5 certifying, and approving facilities, issuing permits, and providing technical
 6 assistance, that are not specified under any other paragraph in this subsection, and
 7 all moneys received under s. 50.135 (2) shall be credited to this appropriation
 8 account.

History: 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322; 1973 c. 90, 198, 243; 1973 c. 284 s. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112; 1977 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (g); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 390; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 199, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 285, 332; 1987 a. 27, 339, 368, 398, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961r, 9126 (19); 1995 a. 77, 98; 1995 a. 216 ss. 26, 27; 1995 a. 266, 276, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293; 1999 a. 5, 9, 32, 52, 84, 103, 109, 113, 133, 185, 186; 2001 a. 16, 69, 103, 105; 2003 a. 33, 139, 186, 318, 320, 326, 327; 2005 a. 15, 22; 2005 a. 25 ss. 299 to 331, 2498 to 2500, 2510; 2005 a. 74, 107, 199, 228, 264, 388, 406, 434; 2007 a. 20 ss. 331 to 422, 9121 (6) (a); 2007 a. 39, 88, 107, 111, 130; s. 13.92 (2) (i).

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Ins 4-9:

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(2) CERTIFICATION. (a) After the date on which the family care benefit under

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s. 46.286 is first made available in a county, no person may operate an adult family

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home in that county that provides residential care to a recipient of supplemental

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security income under 42 USC 1381 to 1383c, a recipient of the family care benefit

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under s. 46.286, or a recipient of services under s. 46.27 (11), 46.275, 46.277, 46.278,

18

or 46.2785 unless the adult family home is certified by the department under par. (b)

19

or (c).

20

(b) The department shall certify an adult family home upon determining that

21

the adult family home satisfies standards established under sub. (3).

1 (c) The department shall certify an adult family home that was certified by a
2 county department to receive payment for residential care under s. 46.27 (1),
3 46.275, 46.277, 46.278, or 46.2785 if the operator of the adult family home attests to
4 all of the following:

5 1. That the adult family home was certified by a county department and is at
6 the same location as when certified by the county department.

7 2. That the adult family home satisfies standards established under sub. (3).

8 (d) Certification under par. (b) or (c) shall be valid until revoked by the
9 department.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0659/P2dn

RLR:/:....

Wlj

Date

Sabrina Fox:

I would like to be more specific under proposed s. 50.031 (2) (c) as to which types of county departments may have certified a one- or two-bed adult family home. Could you please let me know which types of county department I should list? *

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

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0659/P2dn
RLR:wlj:md

January 25, 2009

Sabrina Fox:

I would like to be more specific under proposed s. 50.031 (2) (c) as to which types of county departments may have certified a one- or two-bed adult family home. Could you please let me know which types of county department I should list?

Robin Ryan
Legislative Attorney
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Ryan, Robin

From: Palchik, Laurie A - DOA [laurie.palchik@wisconsin.gov]
Sent: Monday, January 26, 2009 5:31 PM
To: Ryan, Robin
Cc: Hanaman, Cathlene
Subject: FW: LRB Draft: 09-0659/P2 Adult Family Homes

Attachments: 09-0659P2.pdf; 09-0659P2dn.pdf



09-0659P2.pdf (38 KB)



09-0659P2dn.pdf (8 KB)

Final changes for the Adult Family Homes Draft:

- ✓ 1. Drafter's note: we recommend that the county agencies be referenced in the following way: "county agencies under s. 46.215, 46.22, 46.23, 51.42, or 51.437."
- ✓ 2. In section 10 of the draft, creating s. 50.031(2)(a), could we please add additional references to encompass consumers in Partnership and the IRIS waiver, which do not have a state statutory citation. Could we add to that paragraph, "...or a recipient who receives services through a program operated under a waiver from the secretary of the federal department of health and human services under 42 USC 1396n (c) or 42 USC 1396n (b) and (c)."
- ✓ 3. After a second look, we feel the new definition of an adult family home under the new s. 50.01(1)(c) [section 8 of the draft] should be modified. As drafted, it would exclude homes that employ shift staff caregivers, rather than a live in operator. Also, as drafted it would include homes where the adults cared for are related to the operator. We recommend revising it to read, "A place in which care, treatment, support, or service above the level of room and board, but not including nursing care, is provided by the operator to up to 2 adults, who are not related to the operator."