

2011 DRAFTING REQUEST

Bill

Received: **08/03/2011**

Received By: **tdodge**

Wanted: **As time permits**

Companion to LRB:

For: **Erik Severson (608) 267-2365**

By/Representing: **Adam Johnson**

May Contact:

Drafter: **tdodge**

Subject: **Mental Health - miscellaneous**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Severson@legis.wi.gov**

Carbon copy (CC:) to: **tamara.dodge@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Changing the term mental retardation to intellectual disability

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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/P1	tdodge 09/01/2011	mduchek 09/29/2011	rschluet 09/30/2011	_____	sbasford 09/30/2011		
/P2	tdodge 11/11/2011	mduchek 11/14/2011	lparisi 11/16/2011	_____	lparisi 11/16/2011		
/1	tdodge 11/21/2011	jdyer 11/22/2011	jfrantze 11/22/2011	_____	mbarman 11/22/2011	sbasford 11/22/2011	
/2	tdodge	mduchek	phenry	_____	sbasford	sbasford	

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	12/12/2011	12/12/2011	12/13/2011	_____	12/13/2011	12/13/2011	

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/1	tdodge 11/21/2011	jdyer 11/22/2011	jfrantze 11/22/2011	_____	mbarman 11/22/2011	sbasford 11/22/2011	

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pa
[Signature]

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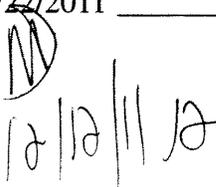
Changing the term mental retardation to intellectual disability

Instructions:

See attached

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12/12/11 JA

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Handwritten initials and date: (P) 11/14/11

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1?	tdodge	/PI MD 9/14/11		KM 9/30 JF 1/30			

FE Sent For:

<END>

Bill Request Form

Legislative Reference Bureau
One East Main Street, Suite 200
Legal Section 266-3561

You may use this form or talk directly with the LRB attorney who will draft the bill.

Date 8-2-11

Legislator, agency, or other person requesting this draft Rep Erik Severson
608-267-2365

Person submitting request (name and phone number) Adam Johnson

Persons to contact for questions about this draft (names and phone numbers) Adam Johnson
608-267-2365

Describe the problem, including any helpful examples. How do you want to solve the problem?
Currently, state statutes use the terms "mentally retarded" and "mental retardation" to describe individuals. This language is archaic and reflects a time when the word "retard" was not used as a slur. Ideally, this bill would mirror legislation passed in Maryland, and other states (attached) in redefining these terms in the state statutes. We are seeking a "people first" solution by changing "mental retardation" to "intellectual disability" and "mentally retarded" to "individual with an intellectual disability".

Please attach a copy of any correspondence or other material that may help us. If you know of any statute sections that might be affected, list them or provide a marked-up copy.
Attached is quick search of statutes for terms and summaries of the Maryland, and Federal proposals

You may attach a marked-up copy of any LRB draft or provide its number (e.g., 2010 LRB-2345/1 or 2009 AB-67).

Requests are confidential unless stated otherwise. May we tell others that we are working on this for you? YES NO

If yes: Anyone who asks? YES NO
 Any legislator? YES NO

Only the following persons AJ Scholz - Office of Rep Severson
608-267-2365

Do you consider this request urgent? YES NO

Should we give this request priority over any pending request of this legislator, agency, or person? YES NO

Quick Search of WI State Statutes.

Mental Retardation

1.	46.275	Statutes
2.	46.278	Statutes
3.	49.45	Statutes
4.	50.04	Statutes
5.	50.14	Statutes
6.	51.01	Statutes
7.	51.06	Statutes
8.	51.42	Statutes
9.	51.62	Statutes
10.	54.01	Statutes
11.	55.01	Statutes
12.	146.40	Statutes
13.	Chapter 150	Statutes
14.	150.96	Statutes
15.	150.963	Statutes
16.	150.975	Statutes
17.	150.983	Statutes
18.	155.20	Statutes
19.	155.30	Statutes
20.	632.88	

Mentally Retarded

1.	46.22	Statutes	... to children who are mentally <u>retarded</u> , dependent, neglected or nonmarital, and...
2.	46.278	Statutes	... care facility for the mentally <u>retarded</u> " under 42 USC 1396d (d...
3.	46.279	Statutes	... care facility for the mentally <u>retarded</u> under 42 USC 1396d (d...
4.	46.284	Statutes	... care facility for the mentally <u>retarded</u> under s. 50.14 (1) (b...

5.  **49.43** Statutes
... state law for the mentally retarded or persons with related conditions...
... or rehabilitative services for mentally retarded individuals according to rules promulgated...
6.  **49.45** Statutes
... provision of service to mentally retarded residents, residents dependent upon ventilators...
... or care for the mentally retarded in the state centers for...
7.  **50.04** Statutes
... care facility for the mentally retarded, as defined in 42 USC...
8.  **50.14** Statutes
... care facility for the mentally retarded" under 42 USC 1396d (d...
... care facilities for the mentally retarded for the fiscal year. 50.14...
9.  **51.06** Statutes
... care facility for the mentally retarded" under 42 USC 1396d (d...
10.  **51.437** Statutes
... day care programs for mentally retarded persons and those programs for...
11.  **Chapter 58** Statutes
... who are mentally ill or retarded.
_____ Ch. 58 -
ANNOT. Cross-reference: See...
12.  **58.05** Statutes
... who are mentally ill or retarded. 58.05(1) 58.05(1) 58.05...
... who are mentally ill or retarded may contain provisions authorizing it...
13.  **88.90** Statutes
... water along the same is retarded by the negligent action of...
14.  **146.40** Statutes
... care facility for the mentally retarded" under 42 USC 1396d (d...
... care facility for the mentally retarded. All of the following applies...
15.  **150.96** Statutes

... 2) "Facility for the mentally retarded" means a facility specially designed...
... custodial care of the mentally retarded; including facilities for training
specialists...
... sheltered workshops for the mentally retarded, but only if such
workshops...
... comprehensive services for the mentally retarded. 150.96(3) 150.96(3)
150.96...
... Nonprofit facility for the mentally retarded", and "nonprofit community
mental health...
... a facility for the mentally retarded, and a community mental health...

16.  **150.963** Statutes

... for facilities for the mentally retarded and community mental health
centers...
... nonprofit facilities for the mentally retarded, and a state plan for...

17.  **150.965** Statutes

... for facilities for the mentally retarded and community mental health
centers...
... existing facilities for the mentally retarded and the mentally ill and...
... adequate services for the mentally retarded and adequate community
mental health...

18.  **150.97** Statutes

... of facilities for the mentally retarded, and community mental health
centers...

19.  **971.14** Statutes

... because he was not mentally retarded, the state was authorized to...



S. 2781

One Hundred Eleventh Congress
of the
United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Tuesday,
the fifth day of January, two thousand and ten*

An Act

To change references in Federal law to mental retardation to references to an intellectual disability, and change references to a mentally retarded individual to references to an individual with an intellectual disability.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as "Rosa's Law".

SEC. 2. INDIVIDUALS WITH INTELLECTUAL DISABILITIES.

(a) HIGHER EDUCATION ACT OF 1965.—Section 760(2)(A) of the Higher Education Act of 1965 (20 U.S.C. 1140(2)(A)) is amended by striking "mental retardation or".

(b) INDIVIDUALS WITH DISABILITIES EDUCATION ACT.—

(1) Section 601(c)(12)(C) of the Individuals with Disabilities Education Act (20 U.S.C. 1400(c)(12)(C)) is amended by striking "having mental retardation" and inserting "having intellectual disabilities".

(2) Section 602 of such Act (20 U.S.C. 1401) is amended—
(A) in paragraph (3)(A)(i), by striking "with mental retardation" and inserting "with intellectual disabilities";
and

(B) in paragraph (3)(C), by striking "of mental retardation" and inserting "of intellectual disabilities".

(c) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—Section 7202(16)(E) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7512(16)(E)) is amended by striking "mild mental retardation," and inserting "mild intellectual disabilities,".

(d) REHABILITATION ACT OF 1973.—

(1) Section 7(21)(A)(iii) of the Rehabilitation Act of 1973 (29 U.S.C. 705(21)(A)(iii)) is amended by striking "mental retardation," and inserting "intellectual disability,".

(2) Section 204(b)(2)(C)(vi) of such Act (29 U.S.C. 764(b)(2)(C)(vi)) is amended by striking "mental retardation and other developmental disabilities" and inserting "intellectual disabilities and other developmental disabilities".

(3) Section 501(a) of such Act (29 U.S.C. 791(a)) is amended, in the third sentence, by striking "President's Committees on Employment of People With Disabilities and on Mental Retardation" and inserting "President's Disability Employment Partnership Board and the President's Committee for People with Intellectual Disabilities".

(e) HEALTH RESEARCH AND HEALTH SERVICES AMENDMENTS OF 1976.—Section 1001 of the Health Research and Health Services

Rosa's Law – Federal anti discrimination law

A journey that began as one Maryland family's battle for respect and acceptance for their daughter and sister, Rosa, became a significant milestone in the ongoing battle for dignity, inclusion and respect of all people with intellectual disabilities when United States President Barack Obama signed bill ~~S. 279 into federal law~~ on October 8, 2010.

Known as "~~Rosa's Law~~" the law removes the terms "mental retardation" and "mentally retarded" from federal health, education and labor policy and replaces them with people first language "individual with an intellectual disability" and "intellectual disability."

The bill, championed by Sen. Barbara Mikulski (D-Md.) and Sen. Mike Enzi (R-Wy.), garnered unanimous support in passing both the House of Representatives and the Senate. Rosa's Law was commemorated in a White House ceremony on October 8 with an 11 member delegation of Special Olympics athletes, leaders and self-advocates present to celebrate the milestone. See the list of delegates.

"Respect, value, and dignity – everyone deserves to be treated this way, including people with intellectual disabilities," said Dr. Timothy P. Shriver, Chairman and CEO of Special Olympics. "The President's signature and the unanimous support of both the House and Senate show that our elected officials understand and embrace this ideal. I congratulate Sen. Mikulski and Sen. Enzi for their vision and sensitivity to people with intellectual disabilities everywhere."

"For far too long we have used hurtful words like 'mental retardation' or 'mentally retarded' in our federal statutes to refer to those living with intellectual disabilities," said Sen. Mikulski. "Rosa's Law will make a greatly-needed change that should have been made well before today — and it will encourage us to treat people the way they would like to be treated."

Special Olympics, as the world's largest movement dedicated to promoting respect and human dignity for those with intellectual disabilities, has long championed the use of people first language. In 2004, in response to its athletes' call for change, the Special Olympics International Board of Directors adopted a resolution to update the movement's terminology from "mental retardation" to "people with intellectual disabilities." In 2008, Special Olympics launched the website www.r-word.org to combat the inappropriate use of the R-word in common usage and helped lead protests against media use of the word in response to the film 'Tropic Thunder.' In 2009, the youth-led "Spread the Word to End the Word" campaign launched with rallies in K-12 schools and universities around the country, enlisting young people to combat use of the word and collecting more than 100,000 signatures to pledge inclusion and respect towards all people.

In order to learn more about youth experiences with the R-word, the Special

Olympics Global Collaborating Center at the University of Massachusetts Boston, and Harris Interactive@ii worked together to design an online survey. In this online survey, youth across the U.S. were asked questions about the R-word, including whether they have ever heard the word, and if so, how they reacted to hearing it. Over a thousand youth between the ages of 8 and 18 responded to the online survey. A bulleted summary of some of the results is below, or you can [read the full results of the survey.](#)

92% of young Americans (ages 8-18) report having heard the R-word used, while 36% have heard the word used specifically toward someone with an intellectual disability.

Only 50% of those who heard it used to refer to someone with an intellectual disability told the person who used the word that it was wrong to do so.

The study also confirmed that as young people progress from elementary school, to middle school and then on to high school, they are less likely to feel bad or sorry for the person being picked on, and more likely to laugh, do nothing, and/or not care.

Youth leaders like Spread the Word to End the Word campaign co-founders Soeren Palumbo and Tim Shriver have used [viral](#) and [grassroots](#) methods to garner support amongst their peers and in schools across the United States and around the world. By highlighting the pervasive use of the R-word in [mainstream media](#) and reaching out to people like Bill O'Reilly when the R-word [is used on his show](#), the campaign has begun to have a noticeable impact. FOX adopted the campaign's ideals when they edited out multiple uses of the R-word in the movie "Miss March" and replaced it with [alternatives in the DVD release](#). The F/X network now includes the R-word as one of three words that are [not allowed to be broadcast](#). MTV has also embraced the campaign by bleeping out the R-word just like any other curse word or slur in shows like "The Real World" and "Teen Mom."

"Meaningful change is often slow to occur, but we've found that once we are able to get our message in front of people, whether they're a neighbor, a friend, a studio executive, celebrity or politician, they generally get it," said Palumbo. "It comes down to the human connection we all share. No matter where we come from, what our background is, we are all human, and we all deserve that requisite respect."

"What people, I hope, are starting to see is that making their pledge to stop using the R-word is just the beginning of a whole new and amazing world that opens up to them," said Shriver. "Once you open your heart to people with intellectual disabilities you're going to want to do more and that's where Special Olympics comes in – it's the next level of activation. Young people today are desperate to make change, to channel their passions in meaningful ways and whether it's starting a unified team at your school, or just cheering at a competition, that's

what Special Olympics is offering – a way for young people to make meaningful change in the world.”

Why ‘Mental Retardation’ is Outdated

Although originally a clinical term and introduced with good intentions, the term "mental retardation" and its pejorative form, "retard" have been used widely in today's society to degrade and insult people with intellectual disabilities. By instead using "intellectual disability" and "an individual with an intellectual disability" in federal laws, the United States sends a strong message that language is important and that no form of the 'R-word' should be used to refer to any of its citizens.

Champions of Rosa’s law made sure that by updating language in federal law that the bill would not expand nor diminish services, rights, responsibilities or educational opportunities duly owed to individuals with intellectual disabilities. It simply makes the federal law language consistent with that used by the Centers for Disease Control, the World Health Organization, and the White House through the President's Committee for People with Intellectual Disabilities. The changes will occur during routine revisions to laws and documents over the next several years. Since the alterations will be implemented gradually, the legislation is not expected to incur any cost.

How ‘Rosa’s Law’ Began

A family in Edgewater, Maryland provided the inspiration for the law. Nina Marcellino is the mother of four children, including Rosa, a child with Down syndrome. In 2009, Marcellino learned that Rosa had been labeled retarded at school. Marcellino didn't allow the R-word in her house, and none of her children described their sister that way. Nina teamed up with other parents and her state delegate to introduce a bill to change the terminology in Maryland state law. Before the bill was brought up for consideration in the Maryland General Assembly, they held a hearing on the implications of changing the term.

There were several witnesses at that hearing, but the testimony that had the greatest impact was given by an 11-year-old boy: Rosa's brother, Nick. "What you call people is how you treat them," Nick said. "What you call my sister is how you will treat her. If you believe she's 'retarded,' it invites taunting, stigma. It invites bullying and it also invites the slammed doors of being treated with respect and dignity."

Nick's comments speak to the core values of Special Olympics – respect, dignity, acceptance and inclusion. Special Olympics congratulates and thanks all involved in passing ‘Rosa’s Law.’

Special Olympics Delegation to White House Commemoration of ‘Rosa’s Law’

Source: <http://www.specialolympics.org/rosas-law.aspx>

HOUSE BILL 20

J1

9lr0553

(PRE-FILED)

By: **Delegate Sophocleus**

Requested: September 2, 2008

Introduced and read first time: January 14, 2009

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Intellectual Disability (Rosa's Law)**

3 FOR the purpose of changing references to mental retardation to an intellectual
4 disability; changing references to a mentally retarded individual to an
5 individual with an intellectual disability; renaming State residential centers for
6 the mentally retarded to be State residential centers for individuals with an
7 intellectual disability; renaming an intermediate care facility for the mentally
8 retarded (ICF-MR) to be an intermediate care facility for individuals with an
9 intellectual disability (ICF-ID); altering certain definitions; defining certain
10 terms; deleting certain obsolete references; making certain stylistic changes;
11 requiring the publisher of the Annotated Code to make certain corrective
12 changes; providing that certain documents may not be used until the use of
13 certain other documents; providing for the intent of this Act; and generally
14 relating to changing references to mental retardation to an intellectual
15 disability.

16 BY repealing and reenacting, with amendments,
17 Article - Education
18 Section 8-401(a)(2) and 13-303(l)
19 Annotated Code of Maryland
20 (2008 Replacement Volume)

21 BY repealing and reenacting, with amendments,
22 Article - Estates and Trusts
23 Section 13-101(l)
24 Annotated Code of Maryland
25 (2001 Replacement Volume and 2008 Supplement)

26 BY repealing and reenacting, with amendments,
27 Article - Family Law

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.





State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-2557
TJD:.)....

med
RMR
2 P1

In: 9/1/11

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

1 AN ACT ^{Gen} ...; relating to: changing terminology for those with an intellectual
2 disability.

Insert
prelim component

Analysis by the Legislative Reference Bureau

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

3 SECTION 1. 46.22 (1) (c) 8. (intro.) of the statutes is amended to read:
4 46.22 (1) (c) 8. (intro.) To administer child welfare services including services
5 to juveniles who are delinquent and to children who are mentally retarded, have an
6 intellectual disability or are dependent, neglected or nonmarital, and to other
7 children who are in need of such services. In administering child welfare services the
8 county department of social services shall be governed by the following:

History: 1971 c. 164, 218; 1973 c. 90 ss. 226, 560 (3); 1973 c. 147, 333; 1975 c. 39; 1975 c. 189 s. 99 (1), (2); 1975 c. 224 ss. 52p, 146m; 1975 c. 307, 422; 1975 c. 430 s. 78; 1977 c. 29 ss. 560, 1656 (18); 1977 c. 83 s. 26; 1977 c. 418, 449; 1979 c. 34, 221; 1981 c. 20 ss. 759 to 763m, 2202 (20) (j); 1981 c. 329; 1981 c. 390 s. 252; 1983 a. 27 s. 2202 (20); 1983 a. 190 s. 7; 1983 a. 192, 193, 447; 1985 a. 29, 120; 1985 a. 176 ss. 28, 30, 59 to 105; 1985 a. 332; 1987 a. 5, 27; 1989 a. 31, 107, 336, 359; 1991 a. 39, 274; 1993 a. 16; 1995 a. 27 ss. 2077 to 2111, 9126 (19), 9130 (4); 1995 a. 64, 77, 201, 289, 352, 404, 417; 1997 a. 3, 27, 35, 252; 1999 a. 9, 83; 2001 a. 16, 103; 2003 a. 33; 2005 a. 25, 264, 344, 388, 406; 2007 a. 20 ss. 857 to 877, 9127 (6) (a); 2007 a. 45, 96; 2009 a. 28, 180, 334; 2011 a. 32.

9 SECTION 2. 46.275 (5) (b) 4. of the statutes is amended to read:

1 46.275 (5) (b) 4. Provide services, except respite care that is approved by the
2 department, within a skilled nursing facility, intermediate care facility or
3 intermediate care facility for persons with ~~mental retardation~~ an intellectual
4 disability, as defined in s. 46.278 (1m) (am), including a state center for the
5 developmentally disabled.

History: 1983 a. 27; 1985 a. 29 ss. 896b to 896L, 3202 (23); 1985 a. 120, 176; 1987 a. 27; 1987 a. 161 s. 13m; 1987 a. 186; 1989 a. 31; 1993 a. 16; 1995 a. 27, 77; 1997 a. 27, 114; 1999 a. 9; 2001 a. 16; 2003 a. 33, 318; 2004 a. 25, 264; 2007 a. 20, 153; 2009 a. 2, 302; 2011 a. 32.

6 **SECTION 3.** 46.278 (1) of the statutes is amended to read:

7 46.278 (1) LEGISLATIVE INTENT. The intent of the programs under this section
8 is to provide home or community-based care to serve in a noninstitutional
9 community setting a person who meets eligibility requirements under 42 USC 1396n
10 (c) and who is diagnosed as developmentally disabled under the definition specified
11 in s. 51.01 (5) and relocated from an institution other than a state center for the
12 developmentally disabled or who meets the intermediate care facility for persons
13 with ~~mental retardation~~ an intellectual disability or brain injury rehabilitation
14 facility level of care requirements for medical assistance reimbursement in an
15 intermediate care facility for persons with ~~mental retardation~~ an intellectual
16 disability or a brain injury rehabilitation facility and is ineligible for services under
17 s. 46.275 or 46.277. The intent of the program is also that counties use all existing
18 services for providing care under this section, including those services currently
19 provided by counties.

History: 1987 a. 27, 186; 1989 a. 31; 1991 a. 269; 1993 a. 16; 1995 a. 27; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2007 a. 153; 2011 a. 32.

20 **SECTION 4.** 46.278 (1m) (am) of the statutes is amended to read:

21 46.278 (1m) (am) “Intermediate care facility for persons with ~~mental~~
22 ~~retardation~~ an intellectual disability” has the meaning given for “intermediate care
23 facility for the mentally retarded” under 42 USC 1396d (d).

History: 1987 a. 27, 186; 1989 a. 31; 1991 a. 269; 1993 a. 16; 1995 a. 27; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2007 a. 153; 2011 a. 32.

****NOTE: Currently, the federal government's change in terminology does not apply to the Social Security Act and thus does not apply to Medicaid. I need to leave the term "intermediate care facility for the mentally retarded" when it refers to the federal *definition as that is the term used in the current federal definition. I presume that changing the state reference to that facility type to "intermediate care facility for persons with an intellectual disability" will not jeopardize federal compliance or funding, but it may be worth confirming this with DHS or the federal Department of Health and Human Services.

of

1 **SECTION 5.** 46.278 (2) (a) of the statutes is amended to read:

2 46.278 (2) (a) The department may request one or more waivers from the
3 secretary of the federal department of health and human services, under 42 USC
4 1396n (c), authorizing the department to serve medical assistance recipients, who
5 meet the level of care requirements for medical assistance reimbursement in an
6 intermediate care facility for persons with ~~mental retardation~~ an intellectual
7 disability or in a brain injury rehabilitation facility, in their communities by
8 providing home or community-based services as part of medical assistance. If the
9 department requests a waiver, it shall include all assurances required under 42 USC
10 1396n (c) (2) in its request.

History: 1987 a. 27, 186; 1989 a. 31; 1991 a. 269; 1993 a. 16; 1995 a. 27; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2007 a. 153; 2011 a. 32.

11 **SECTION 6.** 46.278 (4) (a) of the statutes is amended to read:

12 46.278 (4) (a) Sections 46.27 (3) (b) and 46.275 (3) (a) and (c) to (e) apply to
13 county participation in a program, except that services provided in the program shall
14 substitute for care provided a person in an intermediate care facility for persons with
15 ~~mental retardation~~ an intellectual disability or in a brain injury rehabilitation
16 facility who meets the intermediate care facility for persons with ~~mental retardation~~
17 an intellectual disability or brain injury rehabilitation facility level of care
18 requirements for medical assistance reimbursement to that facility rather than for
19 care provided at a state center for the developmentally disabled.

History: 1987 a. 27, 186; 1989 a. 31; 1991 a. 269; 1993 a. 16; 1995 a. 27; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2007 a. 153; 2011 a. 32.

20 **SECTION 7.** 46.278 (5) (a) of the statutes is amended to read:

1 46.278 (5) (a) Any medical assistance recipient who meets the level of care
2 requirements for medical assistance reimbursement in an intermediate care facility
3 for persons with ~~mental retardation~~ an intellectual disability or in a brain injury
4 rehabilitation facility and is ineligible for service under s. 46.275 or 46.277 is eligible
5 to participate in a program, except that persons eligible for the brain injury waiver
6 program must meet the definition of brain injury under s. 51.01 (2g), and except that
7 the number of participants may not exceed the number approved under the waiver
8 received under sub. (3). Such a recipient may apply, or any person may apply on
9 behalf of such a recipient, for participation in a program. Section 46.275 (4) (b)
10 applies to participation in a program.

History: 1987 a. 27, 186; 1989 a. 31; 1991 a. 269; 1993 a. 16; 1995 a. 27; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2007 a. 153; 2011 a. 32.

11 **SECTION 8.** 46.278 (6) (e) 1. a. of the statutes is amended to read:

12 46.278 (6) (e) 1. a. An intermediate care facility for persons with mental
13 ~~retardation~~ an intellectual disability that closes under s. 50.03 (14).

History: 1987 a. 27, 186; 1989 a. 31; 1991 a. 269; 1993 a. 16; 1995 a. 27; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2007 a. 153; 2011 a. 32.

14 **SECTION 9.** 46.278 (6) (e) 1. b. of the statutes is amended to read:

15 46.278 (6) (e) 1. b. An intermediate care facility for persons with mental
16 ~~retardation~~ an intellectual disability or a distinct part thereof that has a plan of
17 closure approved by the department and that intends to close within 12 months.

History: 1987 a. 27, 186; 1989 a. 31; 1991 a. 269; 1993 a. 16; 1995 a. 27; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2007 a. 153; 2011 a. 32.

18 **SECTION 10.** 46.278 (6) (e) 1. c. of the statutes is amended to read:

19 46.278 (6) (e) 1. c. An intermediate care facility for persons with mental
20 ~~retardation~~ an intellectual disability that has a plan of closure or significant
21 reduction in capacity approved by the department and that intends to close or
22 significantly reduce its capacity within 60 months.

History: 1987 a. 27, 186; 1989 a. 31; 1991 a. 269; 1993 a. 16; 1995 a. 27; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2007 a. 153; 2011 a. 32.

23 **SECTION 11.** 46.284 (2) (c) of the statutes is amended to read:

1 46.284 (2) (c) The department shall require, as a term of any contract with a
2 care management organization under this section, that the care management
3 organization contract for the provision of services that are covered under the family
4 care benefit with any community-based residential facility under s. 50.01 (1g),
5 residential care apartment complex under s. 50.01 (1d), nursing home under s. 50.01
6 (3), intermediate care facility for ~~the mentally retarded~~ persons with an intellectual
7 disability under s. 50.14 (1) (b), community rehabilitation program, home health
8 agency under s. 50.49 (1) (a), provider of day services, or provider of personal care,
9 as defined in s. 50.01 (4o), that agrees to accept the reimbursement rate that the care
10 management organization pays under contract to similar providers for the same
11 service and that satisfies any applicable quality of care, utilization, or other criteria
12 that the care management organization requires of other providers with which it
13 contracts to provide the same service. Individuals with an intellectual disability

History: 1999 a. 9; 2001 a. 16, 103; 2003 a. 33; 2005 a. 264, 386; 2007 a. 20; 2009 a. 2, 28; 2011 a. 10, 32.

14 **SECTION 12.** 49.43 (7) (b) 1. of the statutes is amended to read:

15 49.43 (7) (b) 1. Licensed or approved under state law for ~~the mentally retarded~~
16 or persons with related conditions, the primary purpose of which is to provide health
17 or rehabilitative services for ~~mentally retarded~~ individuals with an intellectual
18 disability according to rules promulgated by the department; and

History: 1977 c. 29 ss. 583m, 591; 1977 c. 418 s. 929 (18); 1978 c. 221; 1981 c. 20 s. 2202 (20) (m); 1981 c. 93; 1983 a. 189; 1987 a. 27; 1987 a. 403 s. 256; 1987 a. 413; 1991 a. 39; 1993 a. 27, 99, 112, 437; 1995 s. 27 ss. 2649, 2661, 2943 to 2946, 9126 (19); 1999 a. 9; 2001 a. 16; 2005 a. 264; 2007 a. 20 s. 9121 (6) (a); 2011 a. 32.

19 **SECTION 13.** 49.45 (6m) (ar) 1. c. of the statutes is amended to read:

20 49.45 (6m) (ar) 1. c. If a facility has an approved program for provision of service
21 to ~~mentally retarded~~ residents who have an intellectual disability, residents
22 dependent upon ventilators, or residents requiring supplemental skilled care due to
23 complex medical conditions, a supplement to the direct care component of the facility

- 1 rate under subd. 1. b. may be made to that facility according to a method developed
2 by the department.

History: 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106j, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (r); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062m, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 31 ss. 1402 to 1452g, 2909g, 2909i; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 112, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 417, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38, 57, 67, 104, 109; 2003 a. 33, 318, 321; 2005 a. 22; 2005 a. 25 ss. 1120 to 1149f, 2503 to 2510; 2005 a. 107, 165, 253, 254, 264, 301, 340, 386, 441; 2007 a. 20 ss. 1513 to 1559h, 9121 (6) (a); 2007 a. 90, 97, 104, 141, 153; 2009 a. 2, 28, 113, 177, 180, 190, 221, 334, 342; 2011 a. 10, 32.

- 3 **SECTION 14. 49.45 (6m) (bg) of the statutes is amended to read:**

- 4 **49.45 (6m) (bg)** The department shall determine payment levels for the
5 provision of skilled, intermediate, limited, personal or residential care or care for the
6 mentally retarded individuals with an intellectual disability in the state centers for
7 the developmentally disabled and in a Wisconsin veterans home operated by the
8 department of veterans affairs under s. 45.50 separately from the payment
9 principles, applicable costs and methods established under this subsection.

History: 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106j, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (r); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062m, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 31 ss. 1402 to 1452g, 2909g, 2909i; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 112, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 417, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38, 57, 67, 104, 109; 2003 a. 33, 318, 321; 2005 a. 22; 2005 a. 25 ss. 1120 to 1149f, 2503 to 2510; 2005 a. 107, 165, 253, 254, 264, 301, 340, 386, 441; 2007 a. 20 ss. 1513 to 1559h, 9121 (6) (a); 2007 a. 90, 97, 104, 141, 153; 2009 a. 2, 28, 113, 177, 180, 190, 221, 334, 342; 2011 a. 10, 32.

- 10 **SECTION 15. 49.45 (30m) (a) 2. of the statutes is amended to read:**

- 11 **49.45 (30m) (a) 2.** Services in an intermediate care facility for persons with
12 mental retardation an intellectual disability, as defined in s. 46.278 (1m) (am), other
13 than a state center for the developmentally disabled.

History: 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106j, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (r); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062m, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 31 ss. 1402 to 1452g, 2909g, 2909i; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 112, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 417, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38, 57, 67, 104, 109; 2003 a. 33, 318, 321; 2005 a. 22; 2005 a. 25 ss. 1120 to 1149f, 2503 to 2510; 2005 a. 107, 165, 253, 254, 264, 301, 340, 386, 441; 2007 a. 20 ss. 1513 to 1559h, 9121 (6) (a); 2007 a. 90, 97, 104, 141, 153; 2009 a. 2, 28, 113, 177, 180, 190, 221, 334, 342; 2011 a. 10, 32.

- 14 **SECTION 16. 49.45 (30m) (a) 2. of the statutes is amended to read:**

1 **49.45 (30m)** (a) 2. Services in an intermediate care facility for persons with
2 ~~mental retardation~~ an intellectual disability, as defined in s. 46.278 (1m) (am), other
3 than a state center for the developmentally disabled.

History: 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106j, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (r); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062m, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 31 ss. 1402 to 1452g, 2909g, 2909i; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 112, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 417, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38, 57, 67, 104, 109; 2003 a. 33, 318, 321; 2005 a. 22; 2005 a. 25 ss. 1120 to 1149f, 2503 to 2510; 2005 a. 107, 165, 253, 254, 264, 301, 340, 386, 441; 2007 a. 20 ss. 1513 to 1559h, 9121 (6) (a); 2007 a. 90, 97, 104, 141, 153; 2009 a. 2, 28, 113, 177, 180, 190, 221, 334, 342; 2011 a. 10, 32.

4 **SECTION 17.** 50.04 (2r) of the statutes is amended to read:

5 **50.04 (2r) ADMISSIONS REQUIRING APPROVAL.** Except in an emergency, a nursing
6 home that is not certified as a provider of medical assistance or that is an
7 intermediate care facility for persons with ~~mental retardation~~ an intellectual
8 disability, as defined in s. 46.278 (1m) (am), or an institution for mental diseases, as
9 defined under 42 CFR 435.1009, may not admit as a resident an individual who has
10 a developmental disability, as defined in s. 51.01 (5), or who is both under age 65 and
11 has mental illness, as defined in s. 51.01 (13), unless the county department under
12 s. 46.23, 51.42 or 51.437 of the individual's county of residence has recommended the
13 admission.

History: 1977 c. 170 ss. 6, 29; 1977 c. 272; 1979 c. 34; 1981 c. 20, 121, 317, 391; 1983 a. 27 s. 2200 (1); 1985 a. 29; 1985 a. 182 s. 57; 1985 a. 332 s. 251 (1), (7); 1987 a. 27, 127, 399; 1989 a. 31, 336; 1991 a. 39, 269, 315; 1995 a. 27; 1997 a. 27, 114, 237, 252, 280; 1999 a. 9, 32, 103; 2003 a. 33; 2007 a. 20, 153; 2009 a. 28.

14 **SECTION 18.** 50.04 (4) (dm) of the statutes is amended to read:

15 **50.04 (4) (dm) Inspection fee.** If the department takes enforcement action
16 against a nursing home, including an intermediate care facility for the ~~mentally~~
17 ~~retarded~~ persons with an intellectual disability, as defined in 42 USC 1396d (d) 50.14
18 (1) (b), for a violation of this subchapter or rules promulgated under it or for a
19 violation of a requirement under 42 USC 1396r, and the department subsequently
20 conducts an on-site inspection of the nursing home to review the nursing home's

1 action to correct the violation, the department may, unless the nursing home is
2 operated by the state, impose a \$200 inspection fee on the nursing home.

History: 1977 c. 170 ss. 6, 29; 1977 c. 272; 1979 c. 34; 1981 c. 20, 121, 317, 391; 1983 a. 27 s. 2200 (1); 1985 a. 29; 1985 a. 182 s. 57; 1985 a. 332 s. 251 (1), (7); 1987
a. 27, 127, 399; 1989 a. 31, 336; 1991 a. 39, 269, 315; 1995 ~~127~~ 127; 1997 a. 27, 114, 237, 252, 280; 1999 a. 9, 32, 103; 2003 a. 33; 2007 a. 20, 153; 2009 a. 28.

3 **SECTION 19.** 50.14 (1) (a) of the statutes is amended to read:

4 50.14 (1) (a) Notwithstanding s. 50.01 (1m), "facility" means a nursing home
5 or an intermediate care facility for persons with ~~mental retardation~~ an intellectual
6 disability that is not located outside the state.

History: 1991 a. 269; 1993 a. 16; 1995 a. 27; 1997 a. 114 ~~27~~ 27; 2003 a. 33; 2005 a. 25, 49; 2007 a. 20, 95, 97, 153; 2009 a. 28, 180.

7 **SECTION 20.** 50.14 (1) (b) of the statutes is amended to read:

8 50.14 (1) (b) "Intermediate care facility for persons with ~~mental retardation~~ an
9 intellectual disability" has the meaning given for "intermediate care facility for the
10 mentally retarded" under 42 USC 1396d (d).

History: 1991 a. 269; 1993 a. 16; 1995 a. 27; 1997 a. 114 ~~27~~ 27; 2003 a. 33; 2005 a. 25, 49; 2007 a. 20, 95, 97, 153; 2009 a. 28, 180.

11 **SECTION 21.** 50.14 (2) (bm) of the statutes is amended to read:

12 50.14 (2) (bm) For intermediate care facilities for persons with ~~mental~~
13 ~~retardation~~ an intellectual disability, an amount calculated by multiplying the
14 projected annual gross revenues of all intermediate care facilities for persons with
15 ~~mental retardation~~ an intellectual disability in this state by 0.055, dividing the
16 product by the number of licensed beds of intermediate care facilities for persons
17 with ~~mental retardation~~ an intellectual disability in this state and dividing the
18 quotient by 12.

History: 1991 a. 269; 1993 a. 16; 1995 a. 27; 1997 a. 114 ~~27~~ 27; 2003 a. 33; 2005 a. 25, 49; 2007 a. 20, 95, 97, 153; 2009 a. 28, 180.

19 **SECTION 22.** 50.14 (2m) of the statutes is amended to read:

20 50.14 (2m) Prior to each state fiscal year, the department shall calculate the
21 amount of the assessment under sub. (2) (bm) that shall apply during the fiscal year.
22 The department may reduce the assessment amount during a state fiscal year to
23 avoid collecting for the fiscal year an amount in bed assessment receipts under sub.

1 (2) (bm) that exceeds 5.5 percent of the aggregate gross revenues for intermediate
2 care facilities for ~~the mentally retarded persons with an intellectual disability~~ for the
3 fiscal year.

4 **History:** 1991 a. 269; 1993 a. 16; 1995 a. 27; 1997 a. 114; 2003 a. 33; 2005 a. 25, 49; 2007 a. 20, 95, 97, 153; 2009 a. 28, 180.

4 **SECTION 23.** 51.01 (5) (a) of the statutes is amended to read:

5 51.01 (5) (a) "Developmental disability" means a disability attributable to
6 brain injury, cerebral palsy, epilepsy, autism, Prader-Willi syndrome, ~~mental~~
7 ~~retardation~~ intellectual disability, or another neurological condition closely related
8 to ~~mental retardation~~ an intellectual disability or requiring treatment similar to that
9 required for individuals with ~~mental retardation~~ an intellectual disability, which has
10 continued or can be expected to continue indefinitely and constitutes a substantial
11 handicap to the afflicted individual. "Developmental disability" does not include
12 dementia that is primarily caused by degenerative brain disorder.

History: 1975 c. 430 ss. 11, 81; 1977 c. 26; 1977 c. 203 s. 106; 1977 c. 428; 1981 c. 79 s. 17; 1983 a. 189 s. 329 (19); 1983 a. 441; 1985 a. 29 s. 3202 (23); 1985 a. 265, 307; 1993 a. 445; 1995 a. 27; 1997 a. 47; 1999 a. 9; 2005 a. 264, 344, 387, 388; 2007 a. 45; 2009 a. 28.

****NOTE: I changed "mental retardation" to "intellectual disability" here, but in this instance "mental retardation" is being used as the technical term for a clinical diagnosis just as cerebral palsy is here. The Diagnostic and Statistical Manual of Mental Disorders, 4th edition (or DSM-IV) specifies the clinical diagnosis for mental retardation as having a certain below-average IQ and additional impairments in adaptive functioning, such as communication and home living. If the mental health community has not changed the name for this diagnosis from "mental retardation" to "intellectual disability," the change of terminology in the statute may be seen to expand the numbers of people who are classified as having a developmental disability. One way to resolve this issue would be to define "intellectual disability" in chapter 51 using the diagnostic criteria that the DSM-IV uses for "mental retardation."

Furthermore, this definition of "developmental disability" may be a Federal government definition.

13 **SECTION 24.** 51.06 (8) (a) 1. of the statutes is amended to read:

14 51.06 (8) (a) 1. "Intermediate care facility for persons with ~~mental retardation~~
15 an intellectual disability" has the meaning given for "intermediate care facility for
16 the mentally retarded" under 42 USC 1396d (d).

History: 1975 c. 430; 1981 c. 20; 1985 a. 29 ss. 1061 to 1064, 3200 (56); 1985 a. 176; 1991 a. 39; 1993 a. 16; 1995 a. 27 s. 9145 (1); 1997 a. 27, 164; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2005 a. 386; 2007 a. 153; 2009 a. 28.

17 **SECTION 25.** 51.06 (8) (b) (intro.) of the statutes is amended to read:

1 51.06 (8) (b) (intro.) Annually by October 1, the department shall submit to the
2 joint committee on finance and to the appropriate standing committees of the
3 legislature under s. 13.172 (3) a report that includes information collected from the
4 previous fiscal year on the relocation or diversion of individuals who are Medical
5 Assistance eligibles or recipients from nursing homes, intermediate care facilities for
6 persons with ~~mental retardation~~ an intellectual disability, and centers for the
7 developmentally disabled. The report shall include all of the following information:

History: 1975 c. 430; 1981 c. 20; 1985 a. 29 ss. 1061 to 1064, 3200 (56); 1985 a. 176; 1991 a. 39; 1993 a. 16; 1995 a. 27 s. 9145 (1); 1997 a. 27, 164; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2005 a. 386; 2007 a. 153; 2009 a. 28.

8 **SECTION 26.** 51.06 (8) (b) 4. of the statutes is amended to read:

9 51.06 (8) (b) 4. An accounting of the costs and savings under the Medical
10 Assistance program of relocations and diversions and the resulting reduction in
11 capacity for services of nursing homes, intermediate care facilities for persons with
12 ~~mental retardation~~ an intellectual disability, and centers for the developmentally
13 disabled. The accounting shall include the per individual savings as well as the
14 collective savings of relocations and diversions.

History: 1975 c. 430; 1981 c. 20; 1985 a. 29 ss. 1061 to 1064, 3200 (56); 1985 a. 176; 1991 a. 39; 1993 a. 16; 1995 a. 27 s. 9145 (1); 1997 a. 27, 164; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2005 a. 386; 2007 a. 153; 2009 a. 28.

15 **SECTION 27.** 51.06 (8) (b) 7. of the statutes is amended to read:

16 51.06 (8) (b) 7. Staff turnover rates for nursing homes, intermediate care
17 facilities for persons with ~~mental retardation~~ an intellectual disability, and centers
18 for the developmentally disabled in communities in which an individual relocated or
19 diverted from a nursing home, intermediate care facility for persons with ~~mental~~
20 ~~retardation~~ an intellectual disability, or center for the developmentally disabled
21 currently resides.

History: 1975 c. 430; 1981 c. 20; 1985 a. 29 ss. 1061 to 1064, 3200 (56); 1985 a. 176; 1991 a. 39; 1993 a. 16; 1995 a. 27 s. 9145 (1); 1997 a. 27, 164; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2005 a. 386; 2007 a. 153; 2009 a. 28.

22 **SECTION 28.** 51.42 (6m) (intro.) of the statutes is amended to read:

1 **51.42 (6m)** COUNTY COMMUNITY PROGRAMS DIRECTOR IN CERTAIN COUNTIES WITH A
2 COUNTY EXECUTIVE OR COUNTY ADMINISTRATOR. (intro.) In any county with a county
3 executive or county administrator in which the county board of supervisors has
4 established a single-county department of community programs, the county
5 executive or county administrator shall appoint and supervise the county
6 community programs director. In any county with a population of 500,000 or more,
7 the county executive or county administrator shall appoint the director of the county
8 department of human services under s. 46.21 as the county community programs
9 director. The appointment of a county community programs director under this
10 subsection shall be on the basis of recognized and demonstrated interest in and
11 knowledge of the problems of mental health, ~~mental-retardation~~ intellectual
12 disability, alcoholism and drug addiction, with due regard to training, experience,
13 executive and administrative ability, and general qualification and fitness for the
14 performance of the duties of the director. The appointment of a county community
15 programs director under this subsection is subject to confirmation by the county
16 board of supervisors unless the county board of supervisors, by ordinance, elects to
17 waive confirmation or unless the appointment is made under a civil service system
18 competitive examination procedure established under s. 59.52 (8) or ch. 63. The
19 county community programs director, subject only to the supervision of the county
20 executive or county administrator, shall:

History: 1971 c. 125; 1973 c. 90, 198, 333, 336; 1975 c. 39, 198, 199, 224, 422; 1975 c. 428 s. 16; 1975 c. 430 ss. 24 to 31, 80; 1977 c. 26 ss. 37, 38, 75; 1977 c. 29 ss. 612 to 623p, 1656 (18); 1977 c. 193; 1977 c. 203 s. 106; 1977 c. 272; 1977 c. 354 s. 101; 1977 c. 418, 428, 447; 1979 c. 34, 117, 177, 221, 330, 355; 1981 c. 20 ss. 923 to 942, 2202 (20) (d), (n), (q); 1981 c. 93 ss. 105 to 122, 186; 1981 c. 329; 1983 a. 27 ss. 1106 to 1112, 2202 (20); 1983 a. 189 ss. 44, 329 (5); 1983 a. 192, 239, 365, 375, 524; 1985 a. 29, 120, 176; 1987 a. 3, 27, 199, 339, 366; 1989 a. 31, 122; 1991 a. 39, 274, 315; 1993 a. 16, 437, 445; 1995 a. 27 ss. 3260 to 3262, 9126 (19), 9145 (1); 1995 a. 64, 77, 92, 201, 224, 276, 352, 417; 1997 a. 27, 164, 237, 268; 1999 a. 9; 2001 a. 10, 16, 38; 2003 a. 320; 2005 a. 264, 388, 431, 434; 2007 a. 20 ss. 1819m to 1821, 9121 (6) (a); 2007 a. 45, 97; 2009 a. 28, 180, 276, 334; 2011 a. 32.

21 **SECTION 29.** 51.437 (4g) (c) of the statutes is amended to read:

22 **51.437 (4g) (c)** In a county with a population of 500,000 or more, the county
23 board of supervisors shall integrate day care programs for ~~mentally-retarded~~ persons

1 with an intellectual disability and those programs for persons with other
2 developmental disabilities into the county developmental disabilities program.

History: 1971 c. 307, 322; 1973 c. 90, 333; 1975 c. 39, 199, 430; 1977 c. 26 ss. 39, 75; 1977 c. 29; 1977 c. 354 s. 101; 1977 c. 418; 1977 c. 428 s. 85, 86, 115; 1979 c. 32, 117, 221, 330, 355; 1981 c. 20, 93, 329; 1983 a. 27, 365, 375, 524; 1985 a. 29 ss. 1094 to 1105m, 3200 (56) (a); 1985 a. 120, 176, 307, 332; 1987 a. 27; 1989 a. 31, 56, 107, 262; 1991 a. 39, 274, 315; 1993 a. 16, 83; 1995 a. 27 ss. 3266m, 9116 (5), 9126 (19), 9145 (1); 1995 a. 64, 77, 92, 201, 225, 352, 417; 1997 a. 27, 35, 164, 252; 1999 a. 9; 2001 a. 16, 59; 2003 a. 33; 2005 a. 25, 264, 388; 2007 a. 20 ss. 1822 p 1824b, 9121 (6) (a); 2007 a. 45, 96; 2009 a. 28, 180, 334; 2011 a. 32.

3 **SECTION 30.** 51.62 (4) of the statutes is amended to read:

4 51.62 (4) DEPARTMENTAL DUTIES. The department shall provide the protection
5 and advocacy agency with copies of annual surveys and plans of correction for
6 intermediate care facilities for persons with ~~mental retardation~~ an intellectual
7 disability on or before the first day of the 2nd month commencing after completion
8 of the survey or plan.

History: 1985 a. 29; 1987 a. 161 s. 13m; 1987 a. 399; 1989 a. 31; 1993 a. 27; 1995 a. 27, 169; 1997 a. 27, 35; 2005 a. 388; 2007 a. 20, 153; 2009 a. 180.

9 **SECTION 31.** 54.01 (8) of the statutes is amended to read:

10 54.01 (8) "Developmental disability" means a disability attributable to ~~mental~~
11 ~~retardation~~ intellectual disability, cerebral palsy, epilepsy, autism, or another
12 neurological condition closely related to ~~mental retardation~~ an intellectual disability
13 or requiring treatment similar to that required for individuals with ~~mental~~
14 ~~retardation~~ an intellectual disability, which has continued or can be expected to
15 continue indefinitely, substantially impairs an individual from adequately providing
16 for his or her own care or custody, and constitutes a substantial handicap to the
17 afflicted individual. The term does not include dementia that is primarily caused by
18 degenerative brain disorder.

History: 1971 c. 41 s. 8; 1971 c. 228 s. 36; Stats. 1971 s. 880.01; 1973 c. 284; 1975 c. 430; 1981 c. 379; 1985 a. 29 s. 3200 (56); 1985 a. 176; 1987 a. 366; 1993 a. 486; 1995 a. 268; 2005 a. 264; 2005 a. 387 ss. 100, 295 to 297, 301, 303 to 305; Stats. 2005 s. 54.01; 2005 a. 388; 2007 a. 45; 2007 a. 97 s. 231; 2009 a. 319.

***NOTE: See note under s. 51.01 (5) (a).

19 **SECTION 32.** 55.01 (2) of the statutes is amended to read:

20 55.01 (2) "Developmental disability" means a disability attributable to ~~mental~~
21 ~~retardation~~ intellectual disability, cerebral palsy, epilepsy, autism or another
22 neurological condition closely related to ~~mental retardation~~ an intellectual disability

1 or requiring treatment similar to that required for individuals with ~~mental~~
2 ~~retardation~~ an intellectual disability, which has continued or can be expected to
3 continue indefinitely, substantially impairs an individual from adequately providing
4 for his or her own care or custody, and constitutes a substantial handicap to the
5 afflicted individual. The term does not include dementia that is primarily caused by
6 degenerative brain disorder.

History: 1973 c. 284; 1975 c. 393, 430; 1979 c. 221; 1985 a. 29 s. 3200 (56); 1985 a. 176; 1991 a. 316; 1993 a. 445; 2003 a. 33; 2005 a. 264, 387, 388; 2007 a. 45, 96.
****NOTE: See note under s. 51.01 (5) (a).

7 **SECTION 33.** 58.05 (title) of the statutes is amended to read:

8 **58.05 (title) Private institutions for persons who are mentally ill or**
9 **~~retarded~~ have an intellectual disability.**

History: 1977 c. 83; 1985 a. 29, 332; 1991 a. 316; 2005 a. 387.

10 **SECTION 34.** 58.05 (1) of the statutes is amended to read:

11 58.05 (1) The articles of organization of any corporation organized under the
12 laws of this state for the establishment and maintenance of any hospital or other
13 institution for the care, treatment or relief of persons who are mentally ill or ~~retarded~~
14 have an intellectual disability may contain provisions authorizing it to receive
15 general, special, permanent or temporary endowments and to secure the repayment
16 of the same in accordance with the terms and conditions upon which they may be
17 made by a mortgage upon its real or personal property, or both, or otherwise, in the
18 manner in such articles provided.

History: 1977 c. 83; 1985 a. 29, 332; 1991 a. 316; 2005 a. 387.

19 **SECTION 35.** 146.40 (1) (bt) of the statutes is amended to read:

20 146.40 (1) (bt) "Intermediate care facility for persons with ~~mental retardation~~
21 an intellectual disability" has the meaning given for "intermediate care facility for
22 the mentally retarded" under 42 USC 1396d (d).

History: 1987 a. 128; 1989 a. 31, 84, 336; 1991 a. 39; 1993 a. 27, 399; 1995 a. 27; 1997 a. 27, 35, 156, 237, 252; 1999 a. 9, 22, 32; 2001 a. 74; 2007 a. 20 ss. 2862, 9121
(6) (a); 2007 a. 45, 153; 2011 a. 32.

1 **SECTION 36.** 146.40 (2) (intro.) of the statutes is amended to read:

2 146.40 (2) (intro.) A hospital, nursing home, intermediate care facility for
3 persons with ~~mental retardation~~ an intellectual disability, home health agency, or
4 hospice may not employ or contract for the services of an individual as a nurse aide,
5 regardless of the title under which the individual is employed or contracted for,
6 unless one of the following is true:

History: 1987 a. 128; 1989 a. 31, 84, 336; 1991 a. 39; 1993 a. 27, 399; 1995 a. 27; 1997 a. 27, 35, 156, 237, 252; 1999 a. 9, 22, 32; 2001 a. 74; 2007 a. 20 ss. 2862, 9121
(6) (a); 2007 a. 45, 153; 2011 a. 32.

7 **SECTION 37.** 146.40 (2) (c) (intro.) of the statutes is amended to read:

8 146.40 (2) (c) (intro.) For hospitals, nursing homes, home health agencies or
9 hospices, whether or not certified providers of medical assistance, and intermediate
10 care facilities persons with ~~mental retardation~~ an intellectual disability that are
11 certified providers of medical assistance, the individual is enrolled in an
12 instructional program for nurse aides that is approved under sub. (3) and is
13 employed or under contract as a nurse's assistant, home health aide or hospice aide
14 fewer than 120 calendar days by the hospital, nursing home, home health agency,
15 hospice or intermediate care facility for ~~the mentally retarded~~ persons with an
16 intellectual disability. All of the following applies to an individual specified under
17 this paragraph:

History: 1987 a. 128; 1989 a. 31, 84, 336; 1991 a. 39; 1993 a. 27, 399; 1995 a. 27; 1997 a. 27, 35, 156, 237, 252; 1999 a. 9, 22, 32; 2001 a. 74; 2007 a. 20 ss. 2862, 9121
(6) (a); 2007 a. 45, 153; 2011 a. 32.

18 **SECTION 38.** 146.40 (2) (c) 2. of the statutes is amended to read:

19 146.40 (2) (c) 2. The hospital, nursing home, home health agency, hospice, or
20 intermediate care facility for persons with ~~mental retardation~~ an intellectual
21 disability may not include the individual in meeting or complying with a

1 requirement for nursing care staff and functions, including a minimum nursing staff
2 requirement.

History: 1987 a. 128; 1989 a. 31, 84, 336; 1991 a. 39; 1993 a. 27, 399; 1995 a. 27; 1997 a. 27, 35, 156, 237, 252; 1999 a. 9, 22, 32; 2001 a. 74; 2007 a. 20 ss. 2862, 9121
(6) (a); 2007 a. 45, 153; 2011 a. 32.

3 **SECTION 39.** 146.40 (2) (d) of the statutes is amended to read:

4 146.40 (2) (d) For hospitals, nursing homes, home health agencies, or hospices,
5 whether or not certified providers of medical assistance, and intermediate care
6 facilities for persons with ~~mental retardation~~ an intellectual disability that are
7 certified providers of medical assistance, the individual has successfully completed
8 an instructional program and a competency evaluation program for nurse aides that
9 is certified in another state that meets criteria for acceptance in this state as
10 specified by the department by rule.

History: 1987 a. 128; 1989 a. 31, 84, 336; 1991 a. 39; 1993 a. 27, 399; 1995 a. 27; 1997 a. 27, 35, 156, 237, 252; 1999 a. 9, 22, 32; 2001 a. 74; 2007 a. 20 ss. 2862, 9121
(6) (a); 2007 a. 45, 153; 2011 a. 32.

11 **SECTION 40.** 146.40 (2) (e) of the statutes is amended to read:

12 146.40 (2) (e) For hospitals, home health agencies, or hospices, whether or not
13 certified providers of medical assistance, nursing homes that are not certified
14 providers of medical assistance and intermediate care facilities for persons with
15 ~~mental retardation~~ an intellectual disability that are certified providers of medical
16 assistance, the individual is a student nurse who has successfully completed a basic
17 nursing course from a school that is on the accredited list of schools specified under
18 s. 441.01 (4) or who successfully completes a competency evaluation program for
19 nurse aides that is approved by the department under sub. (3m).

History: 1987 a. 128; 1989 a. 31, 84, 336; 1991 a. 39; 1993 a. 27, 399; 1995 a. 27; 1997 a. 27, 35, 156, 237, 252; 1999 a. 9, 22, 32; 2001 a. 74; 2007 a. 20 ss. 2862, 9121
(6) (a); 2007 a. 45, 153; 2011 a. 32.

20 **SECTION 41.** 146.40 (2) (g) of the statutes is amended to read:

21 146.40 (2) (g) For hospitals, nursing homes, home health agencies, or hospices,
22 whether or not certified providers of medical assistance, and intermediate care
23 facilities for persons with ~~mental retardation~~ an intellectual disability that are

1 certified providers of medical assistance, the individual, if he or she has performed
2 no nursing-related service for monetary compensation for 24 consecutive months
3 after having satisfied the requirement under par. (a), again successfully completes
4 a competency evaluation program for nurse aides that is approved by the department
5 under sub. (3m).

History: 1987 a. 128; 1989 a. 31, 84, 336; 1991 a. 39; 1993 a. 27, 399; 1995 a. 27; 1997 a. 27, 35, 156, 237, 252; 1999 a. 9, 22, 32; 2001 a. 74; 2007 a. 20 ss. 2862, 9121
(6) (a); 2007 a. 45, 153; 2011 a. 32.

6 **SECTION 42.** 146.40 (2m) of the statutes is amended to read:

7 146.40 (2m) A nursing home or intermediate care facility for persons with
8 ~~mental retardation~~ an intellectual disability, whether or not the nursing home or
9 intermediate care facility is a certified provider of medical assistance, may not
10 employ or contract for the services of an individual as a feeding assistant, regardless
11 of the title under which the individual is employed or contracted for, unless the
12 individual has successfully completed a state-approved training and testing
13 program, as specified by the department by rule.

History: 1987 a. 128; 1989 a. 31, 84, 336; 1991 a. 39; 1993 a. 27, 399; 1995 a. 27; 1997 a. 27, 35, 156, 237, 252; 1999 a. 9, 22, 32; 2001 a. 74; 2007 a. 20 ss. 2862, 9121
(6) (a); 2007 a. 45, 153; 2011 a. 32.

14 **SECTION 43.** 150.96 (2) of the statutes is amended to read:

15 150.96 (2) "Facility for ~~the mentally retarded~~ individuals with an intellectual
16 disability" means a facility specially designed for the diagnosis, treatment,
17 education, training or custodial care of ~~the mentally retarded~~ individuals with an
18 intellectual disability; including facilities for training specialists and sheltered
19 workshops for ~~the mentally retarded~~ individuals with an intellectual disability, but
20 only if such workshops are part of facilities which provide or will provide
21 comprehensive services for ~~the mentally retarded~~ individuals with an intellectual
22 disability.

History: 1979 c. 177; 1981 c. 314; 1983 a. 189; 1993 a. 27 s. 237; Stats. 1993 s. 150.96; 1999 a. 83.

Move
to
P17

150.96

1 SECTION 44. Subchapter VIII (title) of chapter 150 [precedes...] of the statutes
2 is amended to read:

CHAPTER 150

SUBCHAPTER VIII

~~MENTAL RETARDATION~~ FACILITIES AND COMMUNITY MENTAL HEALTH
CENTERS CONSTRUCTION

FOR THE INTELLECTUALLY
DISABLED

All caps

Insert 3
material
from
p16

Strike

7 SECTION 45. 150.963 (title) of the statutes is amended to read:
8 150.963 (title) Construction of ~~mental retardation~~ facilities and
9 community mental health centers.

For the
intellectually
disabled

score

Strike

History: 1979 c. 89; 1993 a. 27 s. 236; Stats. 1993 s. 150.963; 1999 a. 83; 2003 a. 33.

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next page

10 SECTION 46. 150.983 (title) of the statutes is amended to read:
11 150.983 (title) ~~Mental retardation facilities~~ Facilities for the
12 intellectually disabled and community mental health centers construction
13 funds.

History: 1979 c. 89; 1993 a. 27 s. 246; Stats. 1993 s. 150.983; 1993 a. 490.

***NOTE: I am changing the name of these facilities, but I am not sure this facility type exists any longer, and if it does, there is an interaction with federal law. These facilities are defined in federal law in the "Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963." From my research, it appears that act has been, ~~for the~~ relevant part, repealed. I cannot find that DHS is operating any facilities under this name or referring to this facility type. You may want to confirm with DHS that this subchapter of chapter 150 is obsolete. If there are facilities under this subchapter, the change in terminology may affect federal compliance or funding.

in

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page

14 SECTION 47. 150.96 (3) of the statutes is amended to read:
15 150.96 (3) "The federal act" means the mental retardation facilities and
16 community mental health centers construction act of 1963 (P.L. 88-164).

History: 1979 c. 177; 1981 c. 314; 1983 a. 189; 1993 a. 27 s. 237; Stats. 1993 s. 150.96; 1999 a. 83.

17 SECTION 48. 150.96 (4) of the statutes is amended to read:
18 150.96 (4) "Nonprofit facility for the ~~mentally retarded~~ individuals with an
19 intellectual disability", and "nonprofit community mental health center" mean,
20 respectively, a facility for the ~~mentally retarded~~ individuals with an intellectual

1 disability, and a community mental health center which is owned and operated by
one or more nonprofit corporations or associations no part of the net earnings of
which inures, or may lawfully inure, to the benefit of any private shareholder or
individual.

Move Section 45 from page 17 to here

Move Section 45 from page 17 to here

History: 1979 c. 177; 1981 c. 314; 1983 a. 189; 1993 a. 27 s. 237; Stats. 1993 s. 150.96; 1999 a. 83.

5 **SECTION 49.** 150.963 (2) (a) of the statutes is amended to read:

6 150.963 (2) (a) Making inventories of existing facilities, surveying the need for
7 construction for facilities for ~~the mentally retarded~~ individuals with an intellectual
8 disability and community mental health centers, and developing programs of
9 construction.

History: 1979 c. 89; 1993 a. 27 s. 238; Stats. 1993 s. 150.963; 1999 a. 83; 2003 a. 33.

10 **SECTION 50.** 150.963 (2) (b) of the statutes is amended to read:

11 150.963 (2) (b) Developing and administering a state plan for the construction
12 of public and other nonprofit facilities for ~~the mentally retarded~~ individuals with an
13 intellectual disability, and a state plan for the construction of public and other
14 nonprofit community mental health centers.

History: 1979 c. 89; 1993 a. 27 s. 238; Stats. 1993 s. 150.963; 1999 a. 83; 2003 a. 33.

15 **SECTION 51.** 150.965 of the statutes is amended to read:

16 **150.965 Construction programs.** The department is directed to develop
17 construction programs for facilities for ~~the mentally retarded~~ individuals with an
18 intellectual disability and community mental health centers for the mentally ill,
19 which shall be based respectively on statewide inventories of existing facilities for
20 ~~the mentally retarded~~ individuals with an intellectual disability and the mentally
21 ill and surveys of need, and which shall provide in accordance with regulations
22 prescribed under the federal act, for facilities which will provide adequate services
23 for ~~the mentally retarded~~ individuals with an intellectual disability and adequate

1 community mental health services for the people residing in this state and for
2 furnishing needed services to persons unable to pay therefor.

3 History: 1993 a. 27 s. 239; Stats. 1993 s. 150.965; ~~1993 a. 213.~~

SECTION 52. 150.97 of the statutes is amended to read:

4 **150.97 Standards for maintenance and operation.** The department shall
5 by regulation prescribe, and shall be authorized to enforce, standards for the
6 maintenance and operation of facilities for ~~the mentally retarded~~ individuals with
7 an intellectual disability, and community mental health centers which receive
8 federal aid for construction under the state plans.

9 History: 1993 a. 27 s. 241; Stats. 1993 s. 150.97. ✓

SECTION 53. 150.975 of the statutes is amended to read:

10 **150.975 Applications.** Applications for ~~mental retardation~~ facility for
11 individuals with an intellectual disability or community mental health center
12 construction projects for which federal funds are requested shall be submitted to the
13 department by the state, a political subdivision thereof or by a public or other
14 nonprofit agency. Each application for a construction project shall conform to federal
15 and state requirements.

16 History: 1993 a. 27 s. 243; Stats. 1993 s. 150.975. ✓

SECTION 54. 150.983 of the statutes is amended to read:

17 **150.983 ~~Mental retardation facilities~~ Facilities for individuals with an**
18 **intellectual disability and community mental health centers construction**
19 **funds.** The department may receive federal funds in behalf of, and transmit them
20 to, applicants. In the general fund there is hereby established, separate and apart
21 from all public moneys of this state, ~~a mental retardation~~ ^{an} intellectual disability
22 facilities construction fund and a community mental health centers construction
23 fund. Money received from the federal government for a construction project under
24 this subchapter approved by the secretary shall be deposited to the credit of the

1 appropriate fund and shall be used solely for payments to applicants for work
2 performed, or purchases made, in carrying out the approved project.

History: 1979 c. 89; 1993 a. 27 s. 246; Stats. 1993 ~~150.983~~; 1993 a. 490.

3 **SECTION 55.** 155.20 (2) (a) 2. of the statutes is amended to read:

4 155.20 (2) (a) 2. An intermediate care facility for persons with mental
5 ~~retardation~~ an intellectual disability, as defined in s. 46.278 (1m) (am).

History: 1989 a. 200; 1991 a. 84, 269, 281; 1995 ~~200~~; 1997 a. 206; 2007 a. 106, 153.

6 **SECTION 56.** 155.30 (3) of the statutes is amended to read:

7 155.30 (3) The department shall prepare and provide copies of a power of
8 attorney for health care instrument and accompanying information for distribution
9 in quantities to health care professionals, hospitals, nursing homes, multipurpose
10 senior centers, county clerks, and local bar associations and individually to private
11 persons. The department shall include, in information accompanying the copy of the
12 instrument, at least the statutory definitions of terms used in the instrument,
13 statutory restrictions on who may be witnesses to a valid instrument, a statement
14 explaining that valid witnesses acting in good faith are statutorily immune from civil
15 or criminal liability and a statement explaining that an instrument may, but need
16 not, be filed with the register in probate of the principal's county of residence. The
17 department may charge a reasonable fee for the cost of preparation and distribution.
18 The power of attorney for health care instrument distributed by the department
19 shall include the notice specified in sub. (1) and shall be in the following form:

20 **POWER OF ATTORNEY FOR HEALTH CARE**

21 Document made this.... day of.... (month),.... (year).

22 **CREATION OF POWER OF ATTORNEY**

23 **FOR HEALTH CARE**

1 I,.... (print name, address and date of birth), being of sound mind, intend by this
2 document to create a power of attorney for health care. My executing this power of
3 attorney for health care is voluntary. Despite the creation of this power of attorney
4 for health care, I expect to be fully informed about and allowed to participate in any
5 health care decision for me, to the extent that I am able. For the purposes of this
6 document, "health care decision" means an informed decision to accept, maintain,
7 discontinue or refuse any care, treatment, service or procedure to maintain, diagnose
8 or treat my physical or mental condition.

9 In addition, I may, by this document, specify my wishes with respect to making
10 an anatomical gift upon my death.

11 DESIGNATION OF HEALTH CARE AGENT

12 If I am no longer able to make health care decisions for myself, due to my
13 incapacity, I hereby designate.... (print name, address and telephone number) to be
14 my health care agent for the purpose of making health care decisions on my behalf.
15 If he or she is ever unable or unwilling to do so, I hereby designate.... (print name,
16 address and telephone number) to be my alternate health care agent for the purpose
17 of making health care decisions on my behalf. Neither my health care agent nor my
18 alternate health care agent whom I have designated is my health care provider, an
19 employee of my health care provider, an employee of a health care facility in which
20 I am a patient or a spouse of any of those persons, unless he or she is also my relative.
21 For purposes of this document, "incapacity" exists if 2 physicians or a physician and
22 a psychologist who have personally examined me sign a statement that specifically
23 expresses their opinion that I have a condition that means that I am unable to receive
24 and evaluate information effectively or to communicate decisions to such an extent

1 that I lack the capacity to manage my health care decisions. A copy of that statement
2 must be attached to this document.

3 GENERAL STATEMENT OF AUTHORITY GRANTED

4 Unless I have specified otherwise in this document, if I ever have incapacity I
5 instruct my health care provider to obtain the health care decision of my health care
6 agent, if I need treatment, for all of my health care and treatment. I have discussed
7 my desires thoroughly with my health care agent and believe that he or she
8 understands my philosophy regarding the health care decisions I would make if I
9 were able. I desire that my wishes be carried out through the authority given to my
10 health care agent under this document.

11 If I am unable, due to my incapacity, to make a health care decision, my health
12 care agent is instructed to make the health care decision for me, but my health care
13 agent should try to discuss with me any specific proposed health care if I am able to
14 communicate in any manner, including by blinking my eyes. If this communication
15 cannot be made, my health care agent shall base his or her decision on any health
16 care choices that I have expressed prior to the time of the decision. If I have not
17 expressed a health care choice about the health care in question and communication
18 cannot be made, my health care agent shall base his or her health care decision on
19 what he or she believes to be in my best interest.

20 LIMITATIONS ON MENTAL HEALTH TREATMENT

21 My health care agent may not admit or commit me on an inpatient basis to an
22 institution for mental diseases, an intermediate care facility for persons with ~~mental~~
23 ~~retardation~~ an intellectual disability, a state treatment facility or a treatment
24 facility. My health care agent may not consent to experimental mental health

1 research or psychosurgery, electroconvulsive treatment or drastic mental health
2 treatment procedures for me.

3 **ADMISSION TO NURSING HOMES OR**
4 **COMMUNITY-BASED RESIDENTIAL FACILITIES**

5 My health care agent may admit me to a nursing home or community-based
6 residential facility for short-term stays for recuperative care or respite care.

7 If I have checked "Yes" to the following, my health care agent may admit me for
8 a purpose other than recuperative care or respite care, but if I have checked "No" to
9 the following, my health care agent may not so admit me:

- 10 1. A nursing home — Yes.... No....
11 2. A community-based residential facility — Yes.... No....

12 If I have not checked either "Yes" or "No" immediately above, my health care
13 agent may admit me only for short-term stays for recuperative care or respite care.

14 **PROVISION OF A FEEDING TUBE**

15 If I have checked "Yes" to the following, my health care agent may have a
16 feeding tube withheld or withdrawn from me, unless my physician has advised that,
17 in his or her professional judgment, this will cause me pain or will reduce my comfort.

18 If I have checked "No" to the following, my health care agent may not have a feeding
19 tube withheld or withdrawn from me.

20 My health care agent may not have orally ingested nutrition or hydration
21 withheld or withdrawn from me unless provision of the nutrition or hydration is
22 medically contraindicated.

23 Withhold or withdraw a feeding tube — Yes.... No....

24 If I have not checked either "Yes" or "No" immediately above, my health care
25 agent may not have a feeding tube withdrawn from me.

1 HEALTH CARE DECISIONS FOR

2 PREGNANT WOMEN

3 If I have checked "Yes" to the following, my health care agent may make health
4 care decisions for me even if my agent knows I am pregnant. If I have checked "No"
5 to the following, my health care agent may not make health care decisions for me if
6 my health care agent knows I am pregnant.

7 Health care decision if I am pregnant — Yes.... No....

8 If I have not checked either "Yes" or "No" immediately above, my health care
9 agent may not make health care decisions for me if my health care agent knows I am
10 pregnant.

11 STATEMENT OF DESIRES,

12 SPECIAL PROVISIONS OR LIMITATIONS

13 In exercising authority under this document, my health care agent shall act
14 consistently with my following stated desires, if any, and is subject to any special
15 provisions or limitations that I specify. The following are specific desires, provisions
16 or limitations that I wish to state (add more items if needed):

17 1) -

18 2) -

19 3) -

20 INSPECTION AND DISCLOSURE OF

21 INFORMATION RELATING TO MY PHYSICAL

22 OR MENTAL HEALTH

23 Subject to any limitations in this document, my health care agent has the
24 authority to do all of the following:

1 (a) Request, review and receive any information, oral or written, regarding my
2 physical or mental health, including medical and hospital records.

3 (b) Execute on my behalf any documents that may be required in order to obtain
4 this information.

5 (c) Consent to the disclosure of this information.

6 (The principal and the witnesses all must sign the document at the same time.)

7 **SIGNATURE OF PRINCIPAL**

8 (person creating the power of attorney for health care)

9 Signature.... Date....

10 (The signing of this document by the principal revokes all previous powers of
11 attorney for health care documents.)

12 **STATEMENT OF WITNESSES**

13 I know the principal personally and I believe him or her to be of sound mind and
14 at least 18 years of age. I believe that his or her execution of this power of attorney
15 for health care is voluntary. I am at least 18 years of age, am not related to the
16 principal by blood, marriage, or adoption, am not the domestic partner under ch. 770
17 of the principal, and am not directly financially responsible for the principal's health
18 care. I am not a health care provider who is serving the principal at this time, an
19 employee of the health care provider, other than a chaplain or a social worker, or an
20 employee, other than a chaplain or a social worker, of an inpatient health care facility
21 in which the declarant is a patient. I am not the principal's health care agent. To
22 the best of my knowledge, I am not entitled to and do not have a claim on the
23 principal's estate.

24 Witness No. 1:

25 (print) Name.... Date....

1 Address....

2 Signature....

3 Witness No. 2:

4 (print) Name.... Date....

5 Address....

6 Signature....

7 **STATEMENT OF HEALTH CARE AGENT AND**

8 **ALTERNATE HEALTH CARE AGENT**

9 I understand that.... (name of principal) has designated me to be his or her
10 health care agent or alternate health care agent if he or she is ever found to have
11 incapacity and unable to make health care decisions himself or herself. (name of
12 principal) has discussed his or her desires regarding health care decisions with me.

13 Agent's signature....

14 Address....

15 Alternate's signature....

16 Address....

17 Failure to execute a power of attorney for health care document under chapter
18 155 of the Wisconsin Statutes creates no presumption about the intent of any
19 individual with regard to his or her health care decisions.

20 This power of attorney for health care is executed as provided in chapter 155
21 of the Wisconsin Statutes.

22 **ANATOMICAL GIFTS (optional)**

23 Upon my death:

24 I wish to donate only the following organs or parts: (specify the organs or
25 parts).

Dodge, Tamara

From: Johnson, Adam
Sent: Thursday, November 10, 2011 2:58 PM
To: Dodge, Tamara
Subject: RE: LRB - 2557 Change Requests

Tami,

I apologize for that oversight. I had reviewed those notes and thought that your proposed resolution was satisfactory to the intent of the draft. Please define "intellectual disability" to match with the definitions we currently use to administer the programs.

Best,
Adam

Adam Johnson

Policy Intern
Representative Erik Severson
Wisconsin 28th Assembly District

From: Dodge, Tamara
Sent: Tuesday, November 08, 2011 5:53 PM
To: Johnson, Adam
Subject: RE: LRB - 2557 Change Requests

Adam,

I reviewed the responses from DHS and they resolve some of my questions in the draft. However, my questions on page 9 after line 3 and page 12 after lines 2 and 12 have not been addressed. These questions deal with uses of the term "mental retardation" as a diagnosis. As I note in the draft, "mental retardation" has a specific diagnostic criteria. Just changing the term without linking "intellectual disability" to the diagnosis may expand programs to serve people not intended to be served by the program. Without a definition, "intellectual disability" could be interpreted to mean any IQ short of genius. I propose in the note to use the DSM-IV diagnostic criteria for "mental retardation" and define "intellectual disability" to fit those criteria for those statutes that use the term as a diagnosis.

Please let me know how to resolve these issues. If you have any questions, please contact me.

Tami

Tamara J. Dodge

Attorney
Wisconsin Legislative Reference Bureau
P.O. Box 2037
Madison, WI 53701-2037
(608) 267 - 7380
tamara.dodge@legis.wisconsin.gov

From: Johnson, Adam
Sent: Tuesday, October 25, 2011 3:34 PM

11/10/2011

To: Dodge, Tamara
Subject: LRB - 2557 Change Requests

Tamara,

Below is the DHS response to the federal compliance concerns with LRB-2557. It seems the problem would be solved with a one line definition such as you suggested in the notes of the first draft. Otherwise, I think the problems are resolved from that end. Could you make the changes and forward the second draft legislation back to Rep. Severson's office?

Thanks much,
Adam Johnson

From: O'Brien, Kyle T - DHS [mailto:Kyle.O'Brien@dhs.wisconsin.gov]
Sent: Tuesday, October 25, 2011 3:24 PM
To: Johnson, Adam
Subject: FW: Clarification for Proposal

Adam,

Here is some information that our staff has developed for you. Please feel free to contact me with any questions that you may have.

Thanks so much,

Kyle O'Brien
Legislative Liaison
Office of the Secretary
Wisconsin Department of Health Services

Phone: (608) 266-3262
Email: Kyle.O'Brien@wisconsin.gov

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From: Bailey, Kevin D - DHS
Sent: Tuesday, October 11, 2011 10:27 AM
To: O'Brien, Kyle T - DHS
Cc: Rowe, Sandra M - DHS; Gebhart, Neil R - DHS
Subject: RE: Clarification for Proposal

Kyle,

Regarding Section 4, I believe the change as drafted is fine. We can use the term 'ICF-ID' for our state facilities without running afoul of the federal government as long as we define the term to mean the same thing as 'ICF-MR' under the federal law. The proposed change does this, and I do not believe adding another clarifying statement is necessary.

11/10/2011

Regarding Section 45, 'facility for mentally retarded' is outdated, and the Chapter 150 reference is generally obsolete from what I have been told. The current state term in use is 'facility for the developmentally disabled' or 'FDD'. There is no corresponding federal term, i.e., I believe the federal regulations would refer to this type facility as an ICF-MR. However, in Wisconsin we license/treat these FDD as nursing homes and they are regulated under Wis. Stat. Chapter 50. There are still numerous such FDD facilities around the state, including parts of many nursing homes. Wis. Admin Code Chapter DHS134 deals with 'Facilities serving people with developmental disabilities'.

There are currently no problems with the state using the term FDD even though the term is not used in the federal statutes or regulations. I do not believe that the proposed name change would have any effect on federal compliance or funding.

Kevin

Kevin D. Bailey
Assistant Legal Counsel, DHS/OLC
1 West Wilson St., Rm 651
PO Box 7850
Madison, WI 53707-7850

Tel: (608) 266-9543
FAX: (608) 267-1434

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From: O'Brien, Kyle T - DHS
Sent: Monday, October 10, 2011 3:43 PM
To: Bailey, Kevin D - DHS
Cc: Rowe, Sandra M - DHS
Subject: RE: Clarification for Proposal

Kevin,

Here is the legislation.

Thanks in advance for any information that you can provide.

- Kyle

Kyle O'Brien
Legislative Liaison
Office of the Secretary
Wisconsin Department of Health Services

Phone: (608) 266-3262

Email: Kyle.Obrien@wisconsin.gov

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From: Bailey, Kevin D - DHS
Sent: Monday, October 10, 2011 11:22 AM
To: O'Brien, Kyle T - DHS
Cc: Rowe, Sandra M - DHS
Subject: RE: Clarification for Proposal

Kyle,

Would it be possible for you to get a copy of the draft legislation for me to see? I am familiar with the overall, nation-wide effort to remove 'the R-word' from state statutes, but have not seen these specific questions addressed before. Seeing the actual proposed language would help me answer their questions/concerns.

Thanks. Kevin

Kevin D. Bailey
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Madison, WI 53707-7850

Tel: (608) 266-9543
FAX: (608) 267-1434

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From: Rowe, Sandra M - DHS
Sent: Friday, October 07, 2011 4:35 PM
To: Bailey, Kevin D - DHS
Cc: OBrien, Kyle - LEGIS
Subject: FW: Clarification for Proposal

Kevin:

Please provide feedback.

Thanks!

Sandy

Sandra M. Rowe
Deputy Chief Legal Counsel
Department of Health Services

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From: O'Brien, Kyle T - DHS
Sent: Friday, October 07, 2011 4:31 PM
To: Rowe, Sandra M - DHS
Subject: FW: Clarification for Proposal

Sandy,

Can you forward this to one of your attorneys to provide some feedback on this email?

Thanks much,

Kyle O'Brien
Legislative Liaison
Office of the Secretary
Wisconsin Department of Health Services

Phone: (608) 266-3262
Email: Kyle.Obrien@wisconsin.gov

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From: Johnson, Adam [mailto:Adam.Johnson@legis.wisconsin.gov]
Sent: Thursday, October 06, 2011 1:37 PM
To: O'Brien, Kyle T - DHS
Subject: Clarification for Proposal

Kyle,

I work in Representative Severson's office and we are drafting a bill that would change references to "mental retardation" in the state statutes to "intellectual disabilities". The drafters at LRB raised two points that warranted further investigation and information from DHS.

First, this bill mirrors federal legislation but the federal legislation does not apply to the Social Security Act or

Medicare as a result. The drafter notes, in changes made to Section 4 46.218(1m)(am) that the federal definition remains the same and it may affect federal compliance or funding to change the term. Would changing the language from "intermediate care facility for the mentally retarded" to "intermediate care facility for persons with an intellectual disability" change our eligibility or compliance? If we inserted a line that clarifies that we mean the two versions to be free substitutions for each other, would that clear any problems?

Secondly, Section 45, 150.963 relates to the names of facilities. The section is currently called "Construction of mental retardation facilities and community mental health centers" which would be changed to "Construction of facilities for the intellectually disabled..." The drafters indicated that this was named in correspondence with the federal "Mental Retardation Facilities and Community Health Centers Construction Act of 1963" which has in relevant part, been repealed. Additionally, the drafter couldn't find any instances where we actually operated any facilities like this and we are seeking clarification as to whether or not the subchapter or chapter 150 is obsolete. If not obsolete, will our name change affect federal compliance or funding?

Thanks for taking the time in answering our questions, feel free to email me back for clarifications or give me a call at 608-267-2365.

Adam Johnson

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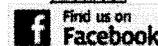
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DSM-IV & DSM-IV-TR: Mental Retardation

This mental disorder is diagnosed in individuals who, from whatever cause, have **intelligence** below an arbitrary level beginning before adulthood and whose adaptive functioning is impaired in any of a variety of areas.

Diagnostic criteria for Mental Retardation (cautionary statement)

- A. Significantly subaverage intellectual functioning: an IQ of approximately 70 or below on an individually administered IQ test (for infants, a clinical judgment of significantly subaverage intellectual functioning).
- B. Concurrent deficits or impairments in present adaptive functioning (i.e., the person's effectiveness in meeting the standards expected for his or her age by his or her cultural group) in at least two of the following areas: communication, self-care, home living, social/interpersonal skills, use of community resources, self-direction, functional academic skills, work, leisure, health, and safety.
- C. The onset is before age 18 years.

Code based on degree of severity reflecting level of intellectual impairment:

317 Mild Mental Retardation: IQ level 50-55 to approximately 70

318.0 Moderate Mental Retardation: IQ level 35-40 to 50-55

318.1 Severe Mental Retardation: IQ level 20-25 to 35-40

318.2 Profound Mental Retardation: IQ level below 20 or 25
 319 Mental Retardation, Severity Unspecified: when there is strong presumption of Mental Retardation but the person's intelligence is untestable by standard tests

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Also: developmental disability

- The Arc (formerly Association for Retarded Citizens of the United States)

Practice Guidelines