



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-0035/4
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2005 ASSEMBLY BILL 1146

March 21, 2006 – Introduced by Representatives KRUSICK, BERCEAU and ZEPNICK.
Referred to Committee on Aging and Long-Term Care.

1 **AN ACT** *to repeal* 50.04 (2) (d); *to renumber and amend* 50.09 (1); *to amend*
2 50.02 (2) (bn), 50.09 (title), 50.09 (2), (4) and (5) and 50.09 (6) (a), (b) and (d); and
3 *to create* 13.94 (12), 16.009 (1) (em) 7., 20.432 (1) (gt), 48.685 (2) (am) 2g.,
4 48.685 (2) (am) 2r., 48.685 (2) (b) 1. bg., 48.685 (2) (b) 1. br., 49.45 (6m) (a) 3m.,
5 49.45 (6m) (a) 4m., 49.45 (6m) (a) 5m., 49.45 (6m) (m), 50.034 (3) (e), 50.034 (9),
6 50.04 (2) (e), 50.065 (2) (am) 2g., 50.065 (2) (am) 2r., 50.065 (2) (b) 1g., 50.065
7 (2) (b) 2r. and 50.09 (1g) of the statutes; **relating to:** authorizing access by the
8 long-term care ombudsman or his or her representative to a client or resident
9 in a residential care apartment complex, imposing an annual assessment on
10 occupied apartments of residential care apartment complexes, expanding
11 rights of residents of facilities; minimum staffing requirements for certain
12 nursing homes; requiring audits by the Legislative Audit Bureau; requiring

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- 1 reports; caregiver background checks; quality of nursing home care; requiring
2 the exercise of rule-making authority; and making an appropriation.
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Analysis by the Legislative Reference Bureau**RESIDENTIAL CARE APARTMENT COMPLEXES**

Under current law, under the Long-Term Care Ombudsman Program, the long-term care ombudsman or his or her designated representative may enter a long-term care facility at any time, without notice, and have access to clients and residents of the facility. “Long-term care facility” is defined as a nursing home, a community-based residential facility (C-BRF), a place in which care is provided under a continuing care contract, a swing bed in an acute care or extended care facility, or an adult family home. The ombudsman or representative may communicate in private with a client or resident, review records with consent of the client or resident or his or her legal counsel, and have access to records of the long-term care facility or of the the Department of Health and Family Services (DHFS) concerning regulation of the long-term care facility.

Also under current law, residential care apartment complexes are certified or registered and otherwise regulated by DHFS. A “residential care apartment complex” is defined as a place where five or more adults reside that consists of independent apartments, each of which has an individual lockable entrance and exit, a kitchen with a stove, and individual bathroom, sleeping, and living areas, and that provides to a resident not more than 28 hours per week of supportive, personal, and nursing services.

Current law specifies rights of residents of nursing homes and community-based residential facilities, including the rights to have private and unrestricted communication with others, to present grievances without justifiable fear of reprisal, and to be fully informed of all services, charges for services, and changes in service.

This bill expands the definition of a long-term care facility, for purposes of activities by the long-term care ombudsman or his or her designated representative, to include residential care apartment complexes.

The bill imposes an assessment on each residential care apartment complex of \$12 per year per occupied apartment, which, beginning on July 1, 2006, the complex must pay annually to DHFS. The assessment is based on occupied apartments for the complex for the preceding June. DHFS must enforce and collect the assessment, which must be credited to an appropriation of program revenues for expenditure by the Board on Aging and Long-Term Care for activities under the Long-Term Care Ombudsman Program in residential care apartment complexes.

The bill includes residents of residential care apartment complexes as persons entitled to the rights that are specified under current law for residents of nursing homes and community-based residential facilities.

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The bill requires a residential care apartment complex to post in a conspicuous location a notice of the name, address, and telephone number of the Long-Term Care Ombudsman Program.

NURSING HOME MINIMUM STAFFING REQUIREMENTS

Current law requires a nursing home that does not primarily serve the developmentally disabled to provide each resident of the nursing home a minimum number of hours of nursing care per day according to the level of nursing care that the resident requires. A registered nurse, licensed practical nurse, or nurse's assistant must provide these minimum hours.

This bill requires DHFS to promulgate rules to specify minimum staffing standards that instead are based on ratios between the number of residents of a nursing home and the number of registered nurses, licensed practical nurses, and certified nurse's assistants (as defined in the bill) on duty in the nursing home during morning, afternoon, and evening shifts. By July 1, 2007, minimum nursing home staffing requirements under current law are eliminated, and DHFS must convert those minimum staffing requirements to the minimum staffing standards specified in DHFS rules, provide training to DHFS staff on enforcement of the standards, and assist nursing homes in implementing the standards. DHFS must, by January 1, 2007, report to the governor and to the legislature concerning the status of DHFS compliance with these requirements. By July 1, 2007, nursing homes must have on duty the number of registered nurses, licensed practical nurses, and certified nurse's assistants necessary to satisfy the minimum staffing standards specified in DHFS rules. Support personnel and certain other nursing home staff may not be used for purposes of calculating the minimum staffing ratios.

Under the bill, DHFS must, by January 1, 2009, submit a report to the governor and to the legislature with recommendations as to methods by which nursing homes would be able more effectively to recruit and retain caregivers; proposed revised minimum nursing home staffing ratios that minimize additional state costs, maximize access to care, facilitate care of the highest quality, and take into account the levels of care for physical or mental conditions that nursing home residents require; and a proposed revised nursing home Medical Assistance (MA) Program reimbursement methodology. DHFS must develop the report after first referring to the most recent national research on nursing home staffing and consulting with specified persons and entities.

Also, under the bill, by July 1, 2008, and by July 1 every 48 months thereafter, the Legislative Audit Bureau must conduct a performance evaluation audit of the nursing home staffing requirements, investigate whether the staffing requirements should be based in part on the level of care for physical or mental conditions that a nursing home resident requires, and file a report of the audit with the governor and the legislature.

Under the bill, DHFS must submit to the legislature by each January 1 from 2006 to 2009 a report that includes information from the preceding year for each nursing home on average wage and fringe benefit costs, costs of nonemployee purchased nursing services, staff turnover, total revenue and expenses, staff training and continuing education costs, and law violations and related information.

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Each report must also include recommendations by DHFS for ways by which nursing homes may reduce their reliance on nonemployee purchased nursing services.

CRIMINAL BACKGROUND CHECKS

Under current law relating to criminal histories and child abuse record searches, DHFS, a county department, a child welfare agency, or a school board must conduct background checks by obtaining certain information with respect to persons who have or are seeking licenses, certifications, or contracts to operate entities, and an entity must obtain the same information with respect to a caregiver of the entity. ("Entity" is defined as a child welfare agency, a licensed foster home or treatment foster home, a group home, a shelter care facility, a day care center, a day care provider, or a temporary employment agency that provides caregivers to another entity.) The information that must be obtained is a criminal history search from records maintained by the Department of Justice; any information in a registry kept by DHFS of persons against whom DHFS has made findings of misappropriation of property, neglect, or abuse; any applicable information maintained by the Department of Regulation and Licensing about the status of the person's credentials; information maintained by DHFS about substantiated reports of the person's child abuse or neglect; and information maintained by DHFS about denial to the person of a license, certification, or certain contracts, employment, or permission to reside at an entity, for specific reasons including conviction for a serious crime. Very similar laws relating to criminal histories and patient abuse record searches apply to persons who have or are seeking a license, certificate, registration, or certificate of approval issued by DHFS to operate a facility, organization, or service (such as a hospital or a personal care worker agency) that is licensed, certified, or registered with DHFS to provide direct care or services to patients.

This bill creates two additional sources of information that must be checked with respect to persons who have or are seeking licenses, certifications, or contracts to operate entities, facilities, organizations, or services: (1) information maintained by the Department of Corrections in the registry of sex offenders; and (2) information on persons convicted of crimes as specified under the circuit court automation information system maintained by the Wisconsin court system on its Internet site.

QUALITY OF NURSING HOME CARE

This bill requires DHFS to submit to the legislature a proposal for legislation to create a program to provide grants to nursing homes for quality-of-care improvement projects.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

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1 **SECTION 4.** 20.432 (1) (gt) of the statutes is created to read:

2 20.432 (1) (gt) *Activities in residential care apartment complexes.* The amounts
3 in the schedule for Long-Term Care Ombudsman Program activities in residential
4 care apartment complexes. All moneys received under s. 50.034 (9) shall be credited
5 to this appropriation account.

6 **SECTION 5.** 48.685 (2) (am) 2g. of the statutes is created to read:

7 48.685 (2) (am) 2g. Information maintained by the department of corrections
8 in the registry of sex offenders under s. 301.45 (2).

9 **SECTION 6.** 48.685 (2) (am) 2r. of the statutes is created to read:

10 48.685 (2) (am) 2r. Information on persons convicted of crimes as specified
11 under the circuit court automation information system maintained by the Wisconsin
12 court system on its Internet site.

13 **SECTION 7.** 48.685 (2) (b) 1. bg. of the statutes is created to read:

14 48.685 (2) (b) 1. bg. Information maintained by the department of corrections
15 in the registry of sex offenders under s. 301.45 (2).

16 **SECTION 8.** 48.685 (2) (b) 1. br. of the statutes is created to read:

17 48.685 (2) (b) 1. br. Information on persons convicted of crimes as specified
18 under the circuit court automation information system maintained by the Wisconsin
19 court system on its Internet site.

20 **SECTION 9.** 49.45 (6m) (a) 3m. of the statutes is created to read:

21 49.45 (6m) (a) 3m. “Licensed practical nurse” means a nurse who is licensed
22 or has a temporary permit under s. 441.10.

23 **SECTION 10.** 49.45 (6m) (a) 4m. of the statutes is created to read:

24 49.45 (6m) (a) 4m. “Nurse’s assistant” has the meaning given in s. 146.40 (1)
25 (d).

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1 **SECTION 11.** 49.45 (6m) (a) 5m. of the statutes is created to read:

2 49.45 **(6m)** (a) 5m. "Registered nurse" means a nurse who has a certificate of
3 registration under s. 441.06 or a temporary permit order under s. 441.08.

4 **SECTION 12.** 49.45 (6m) (m) of the statutes is created to read:

5 49.45 **(6m)** (m) By January 1, 2006, 2007, 2008, and 2009, the department shall
6 submit a report to the chief clerk of each house of the legislature, for distribution to
7 the legislature under s. 13.172 (2), that shall include all of the following:

8 1. For the preceding calendar year for each facility:

9 a. The staff turnover rate for registered nurses, licensed practical nurses, and
10 nurse's assistants employed by the facility.

11 b. The average hourly wage and fringe benefit costs, including specific
12 unemployment compensation and worker's compensation costs, for registered
13 nurses, licensed practical nurses, nurse's assistants, dietary staff, housekeeping
14 staff, and laundry staff employed by the facility and the average hourly cost for
15 nonemployee purchased services, if any, of registered nurses, licensed practical
16 nurses, and nurse's assistants.

17 c. Total revenues and expenses, total net income after taxes, expenses for each
18 of the facility's cost centers under par. (am), the medical assistance reimbursement
19 rate and method of calculation, the number of patient beds, and the number of
20 patient days.

21 d. Total cost of recruiting, screening, educating, and training the nursing staff
22 of the facility.

23 e. Any correlation that may be shown between the number of notices of
24 violations for class "A," "B," or "C" violations a facility received under s. 50.04, if any,

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1 and the frequency with which the facility used nonemployee purchased services of
2 registered nurses, licensed practical nurses, or nurse’s assistants.

3 2. Recommendations of the department for incentives for facilities to reduce
4 reliance on nonemployee purchased services of registered nurses, licensed practical
5 nurses, or nurse’s assistants.

6 **SECTION 13.** 50.02 (2) (bn) of the statutes is amended to read:

7 50.02 (2) (bn) The department may, by rule, increase the minimum hours of
8 ~~nursing home care per day~~ staffing standards that are specified in s. 50.04 (2) (d) ~~1.~~
9 ~~to 3.~~ (e).

10 **SECTION 14.** 50.034 (3) (e) of the statutes is created to read:

11 50.034 (3) (e) Post in a conspicuous location in the residential care apartment
12 complex a notice, provided by the board on aging and long-term care, of the name,
13 address, and telephone number of the Long-Term Care Ombudsman Program under
14 s. 16.009 (2) (b).

15 **SECTION 15.** 50.034 (9) of the statutes is created to read:

16 50.034 (9) ASSESSMENT ON OCCUPIED APARTMENTS. (a) In this subsection,
17 “complex” means a certified or registered residential care apartment complex.

18 (b) For the privilege of doing business in this state, there is imposed on all
19 occupied apartments of a complex an annual assessment that shall be credited to the
20 appropriation account under s. 20.432 (1) (gt) and that is \$12 per apartment.

21 (c) By July 1 annually, a complex shall submit to the department the amount
22 due under par. (b) for each occupied apartment of the complex for the preceding June.
23 The department shall verify the number of apartments of a complex and, if necessary,
24 make adjustments to the payment, notify the complex of changes in the payment

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1 owing, and send the complex an invoice for the additional amount due or send the
2 complex a refund.

3 (d) Sections 77.59 (1) to (5), (6) (intro.), (a), and (c), and (7) to (10), 77.60 (1) to
4 (7), (9), and (10), 77.61 (9) and (12) to (14), and 77.62, as they apply to the taxes under
5 subch. III of ch. 77, apply to the assessment under this subsection.

6 (e) 1. The department shall enforce and collect the assessment under this
7 subsection and shall develop and distribute forms necessary for levying and
8 collection.

9 2. The department shall promulgate rules that establish procedures and
10 requirements for levying the assessment under this subsection.

11 (f) 1. An affected complex may contest an action by the department under this
12 subsection by submitting a written request for a hearing to the department within
13 30 days after the date of the department's action.

14 2. An order or determination made by the department under a hearing as
15 specified in subd. 1. is subject to judicial review as prescribed under ch. 227.

16 **SECTION 16.** 50.04 (2) (d) of the statutes is repealed.

17 **SECTION 17.** 50.04 (2) (e) of the statutes is created to read:

18 50.04 (2) (e) 1. In this paragraph:

19 a. "Afternoon work shift" means the 8-hour work shift that begins immediately
20 after the morning shift.

21 b. "Certified nurse's assistant" means a nurse's assistant who meets the
22 requirements specified under 42 USC 1296r (b) (5) (A) to (E).

23 c. "Evening work shift" means the 8-hour work shift that begins immediately
24 after the afternoon work shift.

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1 d. "Morning work shift" means the first 8-hour work shift that begins after
2 midnight.

3 2. The department shall promulgate rules that specify minimum staffing
4 standards that are based on ratios between the number of registered nurses on duty
5 in a nursing home per morning work shift, afternoon work shift, or evening work
6 shift and the number of residents of the nursing home, between the number of
7 licensed practical nurses on duty in a nursing home per morning work shift,
8 afternoon work shift, or evening work shift and the number of residents of the
9 nursing home, and between the number of certified nurse's assistants on duty in a
10 nursing home per morning work shift, afternoon work shift, or evening work shift
11 and the number of residents of the nursing home.

12 3. By July 1, 2007, the department shall convert the minimum staffing
13 requirements specified in s. 50.04 (2) (d), 2005 stats., to the minimum staffing
14 standards specified in subd. 2., shall provide training to staff on enforcement of the
15 standards, and shall assist nursing homes in implementing the standards.

16 4. By July 1, 2007, a nursing home, other than a nursing home that primarily
17 serves the developmentally disabled, shall have on duty the number of registered
18 nurses, licensed practical nurses, and certified nurse's assistants necessary to satisfy
19 the minimum staffing standards developed by the department under subd. 2.

20 5. A registered nurse, licensed practical nurse, or certified nurse's assistant
21 who while on duty provides primarily support services, including food preparation,
22 housekeeping, laundry, or maintenance services, may not be counted for purposes of
23 calculating the minimum staffing ratios under subd. 2. A registered nurse who is
24 employed as a director of nursing, as an assistant director of nursing, or as the charge
25 nurse required under par. (b), may not be counted for purposes of calculating the

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1 minimum staffing requirements under subd. 2. while he or she is performing the
2 duties of a director of nursing, assistant director of nursing, or charge nurse.

3 6. By January 1, 2009, after first referring to the most recent national research
4 on nursing home staffing and consulting with representatives of the nursing home
5 industry, labor unions that represent nursing home employees, advocates for elderly
6 and disabled persons, recognized experts with experience in long-term care
7 reimbursement, economists, the attorney general, the federal centers for medicare
8 and medicaid services, and other interested parties, the department shall submit a
9 report to the governor, and to the chief clerk of each house of the legislature for
10 distribution to the legislature under s. 13.172 (2). The report shall contain all of the
11 following recommendations:

12 a. Proposed methods by which nursing homes are able more effectively to
13 recruit and retain caregivers.

14 b. Proposed revised minimum nursing home staffing ratios that minimize
15 additional state costs, maximize access to care, facilitate care of the highest quality,
16 and take into account the levels of care for physical or mental conditions that nursing
17 home residents require.

18 c. A proposed revised nursing home medical assistance reimbursement
19 methodology that more effectively promotes resident care of high quality, advances
20 wages and benefits for nursing home workers, supports nursing home provider
21 compliance with applicable state statutes and rules and federal statutes and
22 regulations, and encourages administrative efficiency.

23 **SECTION 18.** 50.065 (2) (am) 2g. of the statutes is created to read:

24 50.065 (2) (am) 2g. Information maintained by the department of corrections
25 in the registry of sex offenders under s. 301.45 (2).

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1 **SECTION 19.** 50.065 (2) (am) 2r. of the statutes is created to read:

2 50.065 (2) (am) 2r. Information on persons convicted of crimes as specified
3 under the circuit court automation information system maintained by the Wisconsin
4 court system on its Internet site.

5 **SECTION 20.** 50.065 (2) (b) 1g. of the statutes is created to read:

6 50.065 (2) (b) 1g. Information maintained by the department of corrections in
7 the registry of sex offenders under s. 301.45 (2).

8 **SECTION 21.** 50.065 (2) (b) 2r. of the statutes is created to read:

9 50.065 (2) (b) 2r. Information on persons convicted of crimes as specified under
10 the circuit court automation information system maintained by the Wisconsin court
11 system on its Internet site.

12 **SECTION 22.** 50.09 (title) of the statutes is amended to read:

13 **50.09 (title) Rights of residents in certain facilities and complexes.**

14 **SECTION 23.** 50.09 (1) of the statutes is renumbered 50.09 (1m), and 50.09 (1m)
15 (intro.), (b), (c), (e), (f) 1. and 3., (g), (j) (intro.) and 2. (intro.) and a. and (L), as
16 renumbered, are amended to read:

17 50.09 (1m) ~~RESIDENTS' RIGHTS.~~ (intro.) Every resident in a ~~nursing home or~~
18 ~~community-based residential facility~~ or a complex shall, except as provided in sub.
19 (5), have the right to:

20 (b) Present grievances on the resident's own behalf or others to the facility's
21 staff or administrator of the facility or complex, to public officials or to any other
22 person without justifiable fear of reprisal, and to join with other residents or
23 individuals within or outside of the facility or complex to work for improvements in
24 resident care.

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1 (c) Manage the resident's own financial affairs, including any personal
2 allowances under federal or state programs, unless the resident delegates, in
3 writing, ~~such~~ this responsibility to the facility or complex and the facility or complex
4 accepts the responsibility, or unless the resident delegates to someone else of the
5 resident's choosing and that person accepts the responsibility. The resident shall
6 receive, upon written request by the resident or guardian, a written monthly account
7 of any financial transactions made by the facility or complex under such a delegation
8 of responsibility.

9 (e) Be treated with courtesy, respect and full recognition of the resident's
10 dignity and individuality, by all employees of the facility or complex and licensed,
11 certified, or registered providers of health care and pharmacists with whom the
12 resident comes in contact.

13 (f) 1. Privacy for visits by spouse. If both spouses are residents of the same
14 facility or complex, they shall be permitted to share a room or apartment unless
15 medically contraindicated as documented by the resident's physician in the
16 resident's medical record.

17 3. Confidentiality of health and personal records, and the right to approve or
18 refuse their release to any individual outside the facility or complex, except in the
19 case of the resident's transfer to another facility or complex or as required by law or
20 3rd-party payment contracts and except as provided in s. 146.82 (2) and (3).

21 (g) Not to be required to perform services for the facility or complex that are not
22 included for therapeutic purposes in the resident's plan of care.

23 (j) (intro.) Be transferred or discharged, and be given reasonable advance notice
24 of any planned transfer or discharge, and an explanation of the need for and
25 alternatives to the transfer or discharge. The facility or complex to which the

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1 resident is to be transferred must have accepted the resident for transfer, except in
2 a medical emergency or if the transfer or discharge is for nonpayment of charges
3 following a reasonable opportunity to pay a deficiency. No person may be
4 involuntarily discharged for nonpayment under this paragraph if the person meets
5 all of the following conditions:

6 2. (intro.) The funding of his or her care in the ~~nursing home or~~
7 ~~community-based residential~~ facility under s. 49.45 (6m) is reduced or terminated
8 because of one of the following:

9 a. He or she requires a level or type of care ~~which~~ that is not provided by the
10 ~~nursing home or community-based residential~~ facility.

11 (L) Receive adequate and appropriate care within the capacity of the facility
12 or complex.

13 **SECTION 24.** 50.09 (1g) of the statutes is created to read:

14 50.09 (1g) In this section, "complex" means a residential care apartment
15 complex.

16 **SECTION 25.** 50.09 (2), (4) and (5) of the statutes are amended to read:

17 50.09 (2) The department, in establishing standards for ~~nursing homes and~~
18 ~~community-based residential facilities~~ and complexes may establish, by rule, rights
19 in addition to those specified in sub. (1) ~~(1m)~~ for residents in ~~such~~ the facilities or
20 complexes.

21 (4) Each facility or complex shall make available a copy of the rights and
22 responsibilities established under this section and the facility's rules of the facility
23 or complex to each resident and each resident's legal representative, if any, at or prior
24 to the time of admission to the facility or complex, to each person who is a resident
25 of the facility or complex, and to each member of the facility's staff of the facility or

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1 complex. The rights, responsibilities, and rules shall be posted in a prominent place
2 in each facility or complex. Each facility or complex shall prepare a written plan and
3 provide appropriate staff training to implement each resident's rights established
4 under this section.

5 (5) Rights established under this section shall not, except as determined by the
6 department of corrections, be applicable to residents in ~~such~~ facilities or complexes,
7 if the resident is in the legal custody of the department of corrections and is a
8 correctional client in ~~such~~ a facility or complex.

9 **SECTION 26.** 50.09 (6) (a), (b) and (d) of the statutes are amended to read:

10 50.09 (6) (a) Each facility or complex shall establish a system of reviewing
11 complaints and allegations of violations of residents' rights established under this
12 section. The facility or complex shall designate a specific individual who, for the
13 purposes of effectuating this section, shall report to the administrator.

14 (b) Allegations of violations of such rights by persons licensed, certified, or
15 registered under chs. 441, 446 to 450, 455, and 456 shall be promptly reported by the
16 facility or complex to the appropriate licensing, examining, or affiliated
17 credentialing board and to the person against whom the allegation has been made.
18 Any employee of the facility or complex and any person licensed, certified, or
19 registered under chs. 441, 446 to 450, 455, and 456 may also report such allegations
20 to the board. ~~Such~~ The board may make further investigation and take such
21 disciplinary action, within the board's statutory authority, as the case requires.

22 (d) The facility or complex shall attach a statement, which summarizes
23 complaints or allegations of violations of rights established under this section, to the
24 report required under s. 50.03 (4) (c) 1. or 2. The statement shall contain the date
25 of the complaint or allegation, the name of the persons involved, the disposition of

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1 the matter, and the date of disposition. The department shall consider the statement
2 in reviewing the report.

3 **SECTION 9102. Nonstatutory provisions; aging and long-term care**
4 **board.**

5 (1) RESIDENTIAL CARE APARTMENT COMPLEX ACTIVITIES. The authorized FTE
6 positions for the board on aging and long-term care are increased by 1.0 PR position
7 on July 1, 2006, to be funded from the appropriation account under section 20.432
8 (1) (gt) of the statutes, as created by this act, for the purpose of performing long-term
9 care ombudsman activities in residential care apartment complexes.

10 **SECTION 9121. Nonstatutory provisions; health and family services.**

11 (1) NURSING HOME STAFFING STANDARDS; RULES. The department of health and
12 family services shall submit in proposed form the rules required under section 50.02
13 (2) (e) of the statutes, as created by this act, to the legislative council staff under
14 section 227.15 (1) of the statutes no later than the first day of the 13th month
15 beginning after the effective date of this subsection.

16 (2) NURSING HOME STAFFING STANDARDS; REPORT. By January 1, 2007, the
17 department of health and family services shall report to the legislature in the
18 manner provided under section 13.172 (3) of the statutes and to the governor
19 concerning the status of the department's compliance with the requirements of
20 section 50.04 (2) (e) 3. of the statutes, as created by this act.

21 (3) ASSESSMENTS ON RESIDENTIAL CARE APARTMENT COMPLEXES; RULES.

22 (a) The department of health and family services shall submit in proposed form
23 the rules required under section 50.034 (9) (e) 2. of the statutes, as created by this
24 act, to the legislative council staff under section 227.15 (1) of the statutes no later

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1 than the first day of the 4th month beginning after the effective date of this
2 paragraph.

3 (b) Using the procedure under section 227.24 of the statutes, the department
4 of health and family services may promulgate rules required under section 50.034
5 (9) (e) 2. of the statutes, as created by this act, for the period before the effective date
6 of the rules submitted under paragraph (a), but not to exceed the period authorized
7 under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24
8 (1) (a), (2) (b), and (3) of the statutes, the department is not required to provide
9 evidence that promulgating a rule under this paragraph as an emergency rule is
10 necessary for the preservation of the public peace, health, safety, or welfare and is
11 not required to provide a finding of emergency for a rule promulgated under this
12 paragraph.

13 (4) PROPOSAL FOR NURSING HOME QUALITY IMPROVEMENT GRANT PROGRAM. By the
14 first day of the 7th month beginning after the effective date of this subsection, the
15 department of health and family services shall submit to the legislature in the
16 manner provided under section 13.172 (2) of the statutes a proposal for legislation
17 to create a program to provide grants to nursing homes for quality-of-care
18 improvement projects. In creating the proposal, the department of health and family
19 services shall consult with advocates for residents of nursing homes, employees of
20 or contractors for services with nursing homes or representatives of the employees
21 or contractors, nursing home administrators, and experts in long-term care issues.
22 Funding for the proposal required under this subsection must be generated within
23 the nursing home industry and may not include general purpose revenues.

24 **SECTION 9321. Initial applicability; health and family services.**

