



## 2003 ASSEMBLY BILL 842

February 16, 2004 - Introduced by Representatives PETTIS, RHOADES, M. WILLIAMS, GRONEMUS, HINES, JOHNSRUD, MUSSER, ALBERS, GROTHMAN, HAHN, LEMAHIEU, HUNDERTMARK, KRAWCZYK, OLSEN, PETROWSKI, OTT, VAN ROY, JESKEWITZ, NISCHKE, SERATTI, STONE, SUDER, J. WOOD and D. MEYER, cosponsored by Senators HARSDORF and REYNOLDS. Referred to Committee on Aging and Long-Term Care.

1     **AN ACT** *to repeal* 50.04 (5) (a) 5m.; *to renumber and amend* 50.04 (5) (a) 6.;  
2           *to amend* 50.03 (5) (a), 50.04 (4) (b) 4., 50.04 (4) (d) 2., 50.04 (4) (e) 1., 50.04 (5)  
3           (title), 50.04 (5) (a) (intro.), 50.04 (5) (a) 1., 2. and 3. (intro.), 50.04 (5) (a) 4., 50.04  
4           (5) (a) 5. a., b. and d., 50.04 (5) (b) (intro.), 50.04 (5) (c), 50.04 (5) (d) (title), 50.04  
5           (5) (d) 1., 50.04 (5) (d) 2. (intro.), 50.04 (5) (dm) (intro.), 50.04 (5) (e), 50.04 (5)  
6           (f), 50.04 (5) (fm), 50.04 (5) (fr) and 50.04 (5) (g); *to repeal and recreate* 50.04  
7           (4) (d) 1. a., 50.04 (4) (d) 1. b. and 50.04 (6) (a); and *to create* 20.435 (6) (ge),  
8           50.01 (1k), 50.01 (1nd), 50.01 (1ng), 50.04 (4) (am) and 50.15 of the statutes;  
9           **relating to:** regulation of nursing homes, requiring the exercise of  
10           rule-making authority, and making an appropriation.

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### *Analysis by the Legislative Reference Bureau*

#### *Federal and state requirements for nursing homes*

Under current law, a nursing home that receives Medicaid or Medicare funding for the care of a resident is subject to both federal and state requirements. The Department of Health and Family Services (DHFS) enforces both federal and state requirements for nursing homes. Currently, for nursing homes that are Medicaid

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and Medicare providers, DHFS may issue both federal and state citations for the same practice and may recommend federal remedies and impose state sanctions. This bill prohibits DHFS from issuing a notice of violation of a state requirement to a nursing home that is a Medical Assistance or Medicare provider if DHFS has, in a statement of deficiency, cited the nursing home for a violation of a federal requirement that is based on the same facts.

***Appeals***

Currently, in order to appeal a DHFS finding that the nursing home violated a state requirement, a nursing home must request a hearing on the finding within ten days of receiving notice of the violation. If DHFS assesses a forfeiture for the violation and the nursing home wishes to appeal the forfeiture, the nursing home must request a separate hearing on the forfeiture within ten days of receiving notice of a contested action. Upon request of the nursing home, the hearing on the finding of violation may be stayed until DHFS assesses a forfeiture so that the hearing on the finding of violation and the hearing on the forfeiture may be consolidated.

The bill extends the deadline for a nursing home to request a hearing on a finding that the nursing home violated a state requirement to 60 days after receipt of the notice of violation. The bill also extends the deadline for requesting a hearing on a forfeiture to 60 days after receipt of notice of the forfeiture. The bill further provides that, if a nursing home timely appeals both a finding of violation and a forfeiture, the hearings on the violation and the forfeiture will be consolidated.

***Monetary penalties***

Under current law, DHFS may assess a forfeiture against a nursing home for a violation of a state requirement. The maximum amount of the forfeiture varies according to the classification of the violation and ranges from \$500 to \$10,000. There is no time limit for DHFS to assess a forfeiture for a violation. Nursing homes must pay forfeitures to DHFS within ten days after receipt of notice of imposition of the forfeiture or after receipt of the final decision after exhaustion of administrative review. If a nursing home does not contest a notice of violation and a forfeiture and pays the forfeiture within ten days after receipt of the notice, DHFS must reduce the forfeiture amount by 35 percent. Forfeitures collected for violations of state requirements are deposited in the school fund.

The bill reduces the maximum forfeiture amounts permitted for violations of state requirements and requires that DHFS impose a penalty assessment on a nursing home whenever DHFS assesses a forfeiture for a violation of a state requirement. The bill further requires DHFS to impose a forfeiture and penalty assessment within 120 days of notifying a nursing home of a violation or lose the authority to impose a forfeiture and penalty assessment. The bill changes to 60 days the time period by which nursing home must pay forfeitures and penalty assessments to DHFS after receipt of the notice of imposition or the final decision after exhaustion of administrative review, and also changes to 60 days the time period within which a nursing home may pay a forfeiture and penalty assessment and have the forfeiture and penalty assessment amounts reduced by 35 percent. The bill allocates moneys collected from the penalty assessments for nursing home quality-of-care improvement grants.

**ASSEMBLY BILL 842*****Conditional licenses***

Currently, in addition to the right to impose a forfeiture on a nursing home for violations, DHFS may issue a conditional license to a nursing home in which DHFS finds that a class "A" or a class "B" violation continues to exist. (A class "A" violation creates a condition or occurrence relating to the operation and maintenance of a nursing home that presents a substantial probability that death or serious mental or physical harm to a nursing home resident will result. A class "B" violation creates a condition or occurrence relating to the operation and maintenance of a nursing home that directly threatens the health, safety, or welfare of a nursing home resident.) Issuing a conditional license revokes any outstanding license held by the nursing home.

This bill expands the standard for issuance by DHFS of a conditional license for a nursing home to also include a continuing violation of federal law that constitutes immediate jeopardy, high risk of death, substantial harm, or actual harm not involving immediate jeopardy to a nursing home resident or that directly threatens, as defined in the bill, such a resident.

***Suspension of admissions***

Under current law, DHFS must suspend new admissions to a nursing home if the nursing home received notices of a class "A" violation or three or more class "B" violations in the previous 12 months; and if the nursing home received notices of a class "A" violation or three or more class "B" violations in any 12-month period during the three years immediately preceding the previous 12 months. Suspension of admissions begins 90 days after a nursing home receives its last notice of a class "A" or class "B" violation if DHFS determines that the violation is uncorrected or on the day that DHFS makes a return visit to the nursing home and determines that the violation has not been corrected. A suspension must remain in effect until DHFS determines that the nursing home has corrected all class "A" and class "B" violations.

This bill expands the standard for suspension of new admissions to a nursing home to include circumstances under which a nursing home received written notice of a violation that involved immediate jeopardy or high risk of death or substantial harm to a resident; a class "A" violation; or three or more class "B" violations or situations that either constituted actual harm not involving immediate jeopardy to a resident or directly threatened, as defined in the bill, a resident. These circumstances must have occurred both in the previous 15 months and in any 15-month period during the 36 months immediately preceding the previous 15 months. Under the bill, suspension of admissions must remain in effect until DHFS determines that the nursing home has corrected the violation in question.

***Suspension or revocation of licensure***

Currently, DHFS may, after providing notice to a nursing home applicant or licensee, suspend or revoke the license if DHFS finds that the nursing home substantially failed to comply with applicable state statutes or rules. No state or federal funds passing through the state treasury may be paid to a nursing home that does not have a valid license. This bill also permits DHFS to suspend or revoke a nursing home license if the nursing home has substantially failed to comply with

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specified state law or with federal requirements related to the operation of a nursing home.

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

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

1           **SECTION 1.** 20.435 (6) (ge) of the statutes is created to read:

2           20.435 (6) (ge) *Nursing home improvement grants.* All moneys received from  
3 penalty assessments imposed by the department under s. 50.04 (5), for nursing home  
4 improvement grants under s. 50.15.

5           **SECTION 2.** 50.01 (1k) of the statutes is created to read:

6           50.01 (1k) “Directly threatened” means created a condition or occurrence  
7 relating to nursing home operation and maintenance that could reasonably be  
8 expected to lead to injury or impairment of a resident or to harm to the health, safety,  
9 or welfare of a resident.

10          **SECTION 3.** 50.01 (1nd) of the statutes is created to read:

11          50.01 (1nd) “High risk of death or substantial harm” means a condition or  
12 occurrence relating to nursing home operation and maintenance that presents a  
13 substantial probability of the death or serious mental or physical injury, harm, or  
14 impairment of a resident.

15          **SECTION 4.** 50.01 (1ng) of the statutes is created to read:

16          50.01 (1ng) “Immediate jeopardy” means a situation in which a nursing home’s  
17 noncompliance with one or more federal requirements related to the operation of a  
18 nursing home has caused, or is likely to cause, death or serious injury, harm, or  
19 impairment to a resident.

20          **SECTION 5.** 50.03 (5) (a) of the statutes is amended to read:

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1           50.03 (5) (a) *Power of department.* The department, after notice to a nursing  
2 home applicant or licensee, may suspend or revoke a license in any case in which the  
3 department finds that the nursing home has substantially failed to comply with the  
4 applicable requirements of this subchapter and the rules promulgated under this  
5 subchapter, with s. 49.498, or with federal requirements related to the operation of  
6 a nursing home. No state or federal funds passing through the state treasury may  
7 be paid to a nursing home that does not have a valid license issued under this section.

8           **SECTION 6.** 50.04 (4) (am) of the statutes is created to read:

9           50.04 (4) (am) *Dual federal and state violations.* If an act or omission  
10 constitutes a violation of this subchapter or the rules promulgated under this  
11 subchapter, s. 49.498, or federal requirements related to the operation of a nursing  
12 home, the department may not issue under s. 50.04 (4) (a) a notice of violation of this  
13 subchapter, the rules promulgated under this subchapter, or s. 49.498 if the  
14 department has, in a statement of deficiency, cited the nursing home for the violation  
15 under federal requirements related to the operation of a nursing home.

16           **SECTION 7.** 50.04 (4) (b) 4. of the statutes is amended to read:

17           50.04 (4) (b) 4. Each day of violation constitutes a separate violation. Except  
18 as provided in sub. (5) (a) 4., the department shall have the burden of showing that  
19 a violation existed on each day for which a forfeiture and penalty assessment is  
20 assessed imposed. No forfeiture or penalty assessment may be assessed imposed for  
21 a condition for which the nursing home has received a variance or waiver of a  
22 standard.

23           **SECTION 8.** 50.04 (4) (d) 1. a. of the statutes is repealed and recreated to read:

24           50.04 (4) (d) 1. a. In the previous 15 months, the nursing home received written  
25 notice of a violation of a state statute or rule or a federal statute or regulation that

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1 involved either immediate jeopardy or a high risk of death or substantial harm to a  
2 resident; a class “A” violation; or 3 or more class “B” violations or situations that  
3 either constituted actual harm not involving immediate jeopardy to a resident or  
4 directly threatened a resident.

5 **SECTION 9.** 50.04 (4) (d) 1. b. of the statutes is repealed and recreated to read:

6 50.04 (4) (d) 1. b. In any 15-month period during the 36 months immediately  
7 preceding the period specified in subd. 1. a., the nursing home received written notice  
8 of a violation of a state statute or rule or a federal statute or regulation that involved  
9 either immediate jeopardy or a high risk of death or substantial harm to a resident;  
10 a class “A” violation; or 3 or more class “B” violations or situations that either  
11 constituted actual harm not involving immediate jeopardy to a resident or directly  
12 threatened a resident.

13 **SECTION 10.** 50.04 (4) (d) 2. of the statutes is amended to read:

14 50.04 (4) (d) 2. A suspension of admissions under subd. 1. shall begin 90 days  
15 after a nursing home received its last notice of violation for a class “A” or class “B”  
16 violation or situation specified in subd. 1. a. if the department determines that the  
17 violation or situation remains uncorrected 90 days after the nursing home received  
18 the last notice of the violation or situation. If the nursing home earlier indicates to  
19 the department that the violation or situation has been corrected, ~~but the~~  
20 ~~department is unable to verify that the violation has been corrected,~~ a suspension of  
21 admissions under subd. 1. shall begin on the day that the department makes a return  
22 visit to the nursing home and determines that the violation or situation has not been  
23 corrected. A suspension of admissions under subd. 1. shall remain in effect until the  
24 department determines that ~~all class “A” and class “B” violations by the nursing~~  
25 ~~home have been~~ has corrected the violation or situation. Admission of a new resident

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1 during the period for which admissions have been suspended constitutes a class "B"  
2 violation.

3 **SECTION 11.** 50.04 (4) (e) 1. of the statutes is amended to read:

4 50.04 (4) (e) 1. If a nursing home desires to contest any department action  
5 under this subsection, it shall send a written request for a hearing under s. 227.44  
6 to the division of hearings and appeals created under s. 15.103 (1) within ~~10~~ 60 days  
7 of receipt of notice of the contested action. Department action that is subject to a  
8 hearing under this subsection includes service of a notice of a violation of this  
9 subchapter or rules promulgated under this subchapter, a notation in the report  
10 under sub. (3) (b), imposition of a plan of correction, and rejection of a nursing home's  
11 plan of correction, but does not include a correction order. Upon the request of the  
12 nursing home, the division shall grant a stay of the hearing under this paragraph  
13 until the department assesses a forfeiture and penalty assessment, so that its  
14 hearing under this paragraph is consolidated with the forfeiture and penalty  
15 assessment appeal hearing held under sub. (5) (e). All agency action under this  
16 subsection arising out of a violation, deficiency, or rejection and imposition of a plan  
17 of correction shall be the subject of a single hearing. Unless a stay is granted under  
18 this paragraph, the division shall commence the hearing within 30 days of the  
19 request for hearing, within 30 days of the department's acceptance of a nursing  
20 home's plan of correction, or within 30 days of the department's imposition of a plan  
21 of correction, whichever is later. The division shall send notice to the nursing home  
22 in conformance with s. 227.44. Issues litigated at the hearing may not be relitigated  
23 at subsequent hearings under this paragraph arising out of the same violation or  
24 deficiency.

25 **SECTION 12.** 50.04 (5) (title) of the statutes is amended to read:

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1           50.04 (5) (title) FORFEITURES AND PENALTY ASSESSMENTS.

2           **SECTION 13.** 50.04 (5) (a) (intro.) of the statutes is amended to read:

3           50.04 (5) (a) *Amounts.* (intro.) Any operator or owner of a nursing home which  
4           that is in violation of this subchapter or any rule promulgated ~~thereunder~~ under this  
5           subchapter may be subject to the forfeitures specified in this section. If the  
6           department imposes a forfeiture under this subsection, the department shall also  
7           impose a penalty assessment under this subsection.

8           **SECTION 14.** 50.04 (5) (a) 1., 2. and 3. (intro.) of the statutes are amended to  
9           read:

10           50.04 (5) (a) 1. A class “A” violation may be subject to a forfeiture of ~~not more~~  
11           ~~than~~ \$250 and a penalty assessment of not more than \$10,000 for each violation.

12           2. A class “B” violation may be subject to a forfeiture of ~~not more than~~ \$125 and  
13           a penalty assessment of not more than \$5,000 for each violation.

14           3. (intro.) A class “C” violation may be subject to a forfeiture of ~~not more than~~  
15           \$60 and a penalty assessment of not more than \$500. No forfeiture or penalty  
16           assessment may be assessed imposed for a class “C” violation unless at least one of  
17           the following applies:

18           **SECTION 15.** 50.04 (5) (a) 4. of the statutes is amended to read:

19           50.04 (5) (a) 4. Notwithstanding subds. 1., 2. and 3., if the violation or group  
20           of violations results from inadequate staffing, the combined amount of the forfeiture  
21           and penalty assessment that the department may assess impose shall be no less than  
22           the difference between the cost of the staff actually employed and the estimated cost  
23           of the staff required. The number of staff required shall be determined by the  
24           provider contract, the court order, or the department, by rule, whichever is greatest.



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1 The inadequate staff shall be presumed to exist from the date of the notice of  
2 violation.

3 **SECTION 16.** 50.04 (5) (a) 5. a., b. and d. of the statutes are amended to read:

4 50.04 (5) (a) 5. a. A nursing home that violates a statute or rule resulting in a  
5 class "A" violation and that has received a notice of violation for a class "A" "A"  
6 violation within the previous 3-year period involving the same situation shall be  
7 subject to a forfeiture 3 times the forfeiture amount authorized for a class "A"  
8 violation and a penalty assessment 3 times the penalty assessment amount  
9 authorized for a class "A" violation.

10 b. Except as provided in subd. 5. a., a nursing home that violates a statute or  
11 rule resulting in a class "A" or class "B" violation and that has received a notice of a  
12 class "A" or class "B" violation of the same statute or rule within the previous 3-year  
13 period may be subject to a forfeiture 3 times the forfeiture amount authorized for the  
14 most recent class of violation involved and a penalty assessment 3 times the penalty  
15 assessment amount authorized for the most recent class of violation involved.

16 d. The forfeiture ~~amount~~ and penalty assessment amounts that is are tripled  
17 under this subdivision shall be the ~~amount assessed~~ forfeiture and penalty  
18 assessment amounts imposed after all appeals have been exhausted. If an  
19 ~~assessment imposition~~ of a forfeiture and penalty assessment is not contested and  
20 the forfeiture is and penalty assessment are paid as provided in par. (fm), the  
21 forfeiture ~~amount~~ and penalty assessment amounts that is are tripled is are the  
22 ~~amount assessed~~ amounts imposed after the reduction specified in par. (fm).

23 **SECTION 17.** 50.04 (5) (a) 5m. of the statutes is repealed

24 **SECTION 18.** 50.04 (5) (a) 6. of the statutes is renumbered 50.04 (5) (a) 6. (intro.)

25 and amended to read:

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1           50.04 (5) (a) 6. (intro.) If a licensee fails to correct a violation within the time  
2 specified in the notice of violation or approved plan of correction, or within the  
3 extended correction time granted under sub. (4) (c) 4., or if a violation continues after  
4 a report of correction, the department may assess upon the licensee ~~a- for each day~~  
5 of the continuing violation whichever of the following is applicable:

6           a. A separate forfeiture of not more than \$10,000 \$250 and a separate penalty  
7 assessment of not more than \$10,000 for a class “A” violations, and may assess a-  
8 violation.

9           b. A separate forfeiture of not more than \$5,000 \$125 and a separate penalty  
10 assessment of not more than \$5,000 for a class “B” violations, for each day of  
11 continuing violation.

12           **SECTION 19.** 50.04 (5) (b) (intro.) of the statutes is amended to read:

13           50.04 (5) (b) *Factors in assessment imposition of forfeitures and penalty*  
14 *assessments.* (intro.) In determining whether to impose a forfeiture is ~~to be imposed~~  
15 and penalty assessment for a violation and in fixing the amount of the forfeiture to  
16 ~~be imposed~~ penalty assessment, if any, ~~for a violation~~, the following factors shall be  
17 considered:

18           **SECTION 20.** 50.04 (5) (c) of the statutes is amended to read:

19           50.04 (5) (c) *Assessment Imposition of forfeitures and penalty assessments;*  
20 *powers and duties of department.* The department may directly assess impose  
21 forfeitures and penalty assessments provided for under par. (a). If the department  
22 determines that a forfeiture and penalty assessment should be assessed imposed for  
23 a particular violation or for failure to correct it, ~~it~~ the department shall send a notice  
24 of assessment imposition of forfeiture and penalty assessment to the nursing home.  
25 The notice shall specify the ~~amount~~ amounts of the forfeiture assessed and penalty

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1 assessment imposed, the violation, and the statute or rule alleged to have been  
2 violated, and shall inform the licensee of the right to hearing under par. (e). If the  
3 department does not issue a notice of forfeiture and penalty assessment within 120  
4 days after the date on which a nursing home receives the notice of a violation, the  
5 department may not impose a forfeiture or penalty assessment for the violation.

6 **SECTION 21.** 50.04 (5) (d) (title) of the statutes is amended to read:

7 50.04 (5) (d) (title) *Forfeiture and penalty assessment period.*

8 **SECTION 22.** 50.04 (5) (d) 1. of the statutes is amended to read:

9 50.04 (5) (d) 1. In the case of a class “B” violation, no forfeiture or penalty  
10 assessment may be assessed imposed for the violation from the day following the  
11 date of discovery until the date of notification. If the department fails to approve or  
12 reject a plan of correction within 15 days after its receipt of a complete plan, no  
13 forfeiture or penalty assessment may be imposed for the period beginning with the  
14 15th day after receipt and ending when notice of approval or rejection is received by  
15 the home. If a plan of correction is approved and carried out, no forfeiture or penalty  
16 assessment may be assessed imposed during the time period specified in the  
17 approved plan of correction, commencing on the day the plan of correction is received  
18 by the department.

19 **SECTION 23.** 50.04 (5) (d) 2. (intro.) of the statutes is amended to read:

20 50.04 (5) (d) 2. (intro.) In the case of a class “C” violation for which a notice of  
21 violation has been served, a forfeiture and penalty assessment may be assessed  
22 imposed for whichever of the following periods is applicable:

23 **SECTION 24.** 50.04 (5) (dm) (intro.) of the statutes is amended to read:

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1           50.04 (5) (dm) (intro.) *Forfeiture and penalty assessment imposition date.* In  
2 the case of a class “B” violation, the department may not assess impose a forfeiture  
3 or a penalty assessment upon a nursing home until:

4           **SECTION 25.** 50.04 (5) (e) of the statutes is amended to read:

5           50.04 (5) (e) *Forfeiture and penalty assessment appeal hearing.* A nursing  
6 home may contest an assessment imposition of a forfeiture and penalty assessment  
7 by sending, within ~~10~~ 60 days after receipt of notice of ~~a contested action~~ the  
8 imposition of the forfeiture and penalty assessment, a written request for hearing  
9 under s. 227.44 to the division of hearings and appeals created under s. 15.103 (1).  
10 The administrator of the division may designate a hearing examiner to preside over  
11 the case and recommend a decision to the administrator under s. 227.46. The  
12 decision of the administrator of the division shall be the final administrative  
13 decision. The division shall commence the hearing within 30 days of receipt of the  
14 request for hearing and shall issue a final decision within 15 days after the close of  
15 the hearing. Proceedings before the division are governed by ch. 227. In any petition  
16 for judicial review of a decision by the division, the party, other than the petitioner,  
17 who was in the proceeding before the division shall be the named respondent. If,  
18 after receipt of notice of imposition of a forfeiture and penalty assessment, a nursing  
19 home that has timely requested a hearing under sub. (4) (e) on the notice of violation  
20 under sub. (4) for which the forfeiture and penalty assessment were imposed  
21 requests a hearing under this paragraph on the imposition of the forfeiture and  
22 penalty assessment, the hearing on the notice of violation under sub. (4) and the  
23 hearing on the imposition of the forfeiture and penalty assessment shall be  
24 consolidated.

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1           **SECTION 26.** 50.04 (5) (f) of the statutes, as affected by 2003 Wisconsin Act 33,  
2 is amended to read:

3           50.04 (5) (f) *Forfeitures and penalty assessments paid within ~~10~~ 60 days.* All  
4 forfeitures and penalty assessments shall be paid to the department within ~~10~~ 60  
5 days of receipt of notice of assessment imposition of the forfeiture and penalty  
6 assessment or, if the forfeiture or penalty assessment is contested under par. (e),  
7 within ~~10~~ 60 days of receipt of the final decision after exhaustion of administrative  
8 review, unless the final decision is appealed and the order is stayed by court order  
9 under s. 50.03 (11). The department shall remit all forfeitures paid to the secretary  
10 of administration for deposit in the school fund. All moneys collected as penalty  
11 assessments under this subsection shall be credited to the appropriation account  
12 under s. 20.435 (6) (ge).

13           **SECTION 27.** 50.04 (5) (fm) of the statutes is amended to read:

14           50.04 (5) (fm) *Forfeiture and penalty assessment reduction for timely payment.*  
15 If a nursing home does not contest a notice of violation under sub. (4) (e) and does not  
16 contest an assessment imposition of a forfeiture and penalty assessment under par.  
17 (e) for a class "A" or class "B" violation and pays the forfeiture and penalty  
18 assessment to the department within ~~10~~ 60 days after receipt of the notice of  
19 assessment imposition of the forfeiture and penalty assessment, the department  
20 shall reduce the amount of the ~~assessment~~ forfeiture and penalty assessment by ~~35%~~  
21 35 percent.

22           **SECTION 28.** 50.04 (5) (fr) of the statutes is amended to read:

23           50.04 (5) (fr) *Report to the legislature.* Annually, the department shall submit  
24 a report to the legislature under s. 13.172 (2) that specifies for the previous year the  
25 number of class "A" violations, the ~~amount~~ amounts of the forfeiture ~~assessment~~ and

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1 penalty assessment imposed for each of those violations and, if known, the amount  
2 amounts of the forfeiture and penalty assessment actually paid and collected with  
3 respect to those violations. The report shall also include an explanation for any  
4 ~~assessment that was~~ imposition of a forfeiture and penalty assessment that totaled  
5 less than \$2,500 for the violations specified in the report.

6 **SECTION 29.** 50.04 (5) (g) of the statutes is amended to read:

7 50.04 (5) (g) *Enforcement by attorney general.* The attorney general may bring  
8 an action in the name of the state to collect any forfeiture or penalty assessment  
9 imposed under this section if the forfeiture or penalty assessment has not been paid  
10 following the exhaustion of all administrative and judicial reviews. The only issue  
11 to be contested in any such action shall be whether the forfeiture or penalty  
12 assessment has been paid.

13 **SECTION 30.** 50.04 (6) (a) of the statutes is repealed and recreated to read:

14 50.04 (6) (a) *Power of department.* 1. In addition to the right to impose  
15 forfeitures and penalty assessments under sub. (5), the department may issue a  
16 conditional license to any nursing home if the department finds that any of the  
17 following is true:

18 a. A class "A" or class "B" violation, as defined in sub. (4), continues to exist in  
19 the nursing home.

20 b. A federal violation continues to exist that constitutes immediate jeopardy,  
21 high risk of death, substantial harm, or actual harm not involving immediate  
22 jeopardy to a resident, or that directly threatens a resident.

23 2. The issuance of a conditional license shall revoke any outstanding license  
24 held by the nursing home.

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1           3. The nursing home may seek review of a decision to issue a conditional license  
2 as provided in s. 50.03 (5).

3           **SECTION 31.** 50.15 of the statutes is created to read:

4           **50.15 Nursing home improvement grants.** From the appropriation  
5 account under s. 20.435 (6) (ge), the department shall make grants to nursing homes  
6 to fund quality-of-care improvement projects. The department shall promulgate  
7 rules that specify the eligibility criteria and application procedures for receipt of a  
8 grant under this section.

9           **SECTION 32. Nonstatutory provisions.**

10           (1) NURSING HOME IMPROVEMENT GRANTS. The department of health and family  
11 services shall submit in proposed form the rules required under section 50.15 of the  
12 statutes, as created by this act, to the legislative council staff under section 227.15  
13 (1) of the statutes no later than the first day of the 13th month beginning after the  
14 effective date of this subsection.

15           **SECTION 33. Initial applicability.**

16           (1) HEARING REQUESTS. The treatment of section 50.04 (4) (e) 1. and (5) (e) of the  
17 statutes first applies to requests for hearings related to a notice of violation, a report  
18 notation, a plan correction, or a rejection of a plan correction that is issued on the  
19 effective date of this subsection.

20           (2) CONDITIONAL LICENSURE. The treatment of sections 50.01 (1k), (1nd), and  
21 (1ng) and 50.04 (6) (a) of the statutes first applies to violations that continue to exist  
22 on the effective date of this subsection.

23           (3) SUSPENSION OF ADMISSIONS. The treatment of sections 50.01 (1k), (1nd), and  
24 (1ng) and 50.04 (4) (d) 1. a. and b. and (d) 2. of the statutes first applies to written  
25 notice of violations received on the effective date of this subsection.

