



2009 ASSEMBLY BILL 944

April 9, 2010 - Introduced by Representatives SHILLING and J. FITZGERALD, cosponsored by Senators VINEHOUT and S. FITZGERALD. Referred to Committee on Aging and Long-Term Care.

- 1 **AN ACT to create** 49.49 (7) of the statutes; **relating to:** agreements between
2 political subdivisions to operate a nursing home or intermediate care facility.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Health Services administers the Medical Assistance (MA) program to provide health care and long-term care services to MA recipients, who are, generally, low-income, elderly, or disabled people who meet other specific eligibility requirements. A provider of services under MA must accept the MA payment, plus any permitted coinsurance, as payment in full. A provider may not accept, and a third party may not pay a provider, any supplemental payment for a service provided under MA. Further, a facility that is an MA provider may not charge a fee for admission or continued placement of an MA recipient.

This bill provides that if two or more counties, cities, towns, or villages (political subdivisions) create a commission to operate a nursing home and the commission imposes assessments on the participating political subdivisions for the costs of operating the nursing home and providing services to residents, payment of the assessments by the political subdivisions and acceptance of the assessments by the commission do not violate prohibitions against supplementing MA payments or billing a third party for MA services. Under the bill, the commission must satisfy certain conditions, including that the commission is the licensee of the nursing home; the commission owns or leases the building in which the nursing home is located; the commission controls admissions to and discharges from the nursing home; and the commission provides, or contracts for, MA services to the residents of the nursing home.

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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:

1 **SECTION 1.** 49.49 (7) of the statutes is created to read:

2 **49.49 (7) OPERATION OF NURSING HOME OR INTERMEDIATE CARE FACILITY BY**
3 **COMMISSION NOT PROHIBITED.** (a) In this subsection:

4 1. “Commission” means an entity that is created by contract between 2 or more
5 political subdivisions under s. 66.0301 to operate a nursing home or intermediate
6 care facility and to which all of the following apply:

7 a. The entity is the named licensee for the nursing home or intermediate care
8 facility.

9 b. The entity is the certified provider under s. 49.45 (2) (a) 11. for the nursing
10 home or intermediate care facility and is the recipient of medical assistance
11 reimbursement for services provided by the nursing home or intermediate care
12 facility.

13 c. The entity owns or leases the building in which the nursing home or
14 intermediate care facility is located.

15 d. The entity provides or contracts for provision of nursing home or
16 intermediate care facility services.

17 e. The entity controls admissions and discharges from the nursing home or
18 intermediate care facility.

19 f. The entity allocates the costs of operating the nursing home or intermediate
20 care facility, and of providing services to residents of the nursing home or
21 intermediate care facility, among the political subdivisions that are parties to the

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1 contract and assesses each political subdivision that is a party to the contract the
2 portion of the costs allocated to that political subdivision.

3 2. "Member" means a political subdivision that is a party to a contract to create
4 a commission.

5 3. "Political subdivision" means a county, city, village, or town.

6 (b) A commission's imposition of an assessment on a member for the costs
7 incurred by the commission to operate the nursing home or intermediate care facility
8 and to provide services to residents of the nursing home or intermediate care facility
9 does not constitute billing a 3rd party for services provided on behalf of an individual.

10 (c) A member's payment to the commission of an assessment described under
11 par. (b) does not constitute a purchase of services on behalf of an individual,
12 regardless of whether the payment is made from the member's general fund, made
13 pursuant to a purchase of services agreement between a member's human services
14 department or other department and the commission, or by a combination of these
15 payment methods.

16 (d) A commission's imposition of an assessment described under par. (b), a
17 member's payment of the assessment as described under par. (c), and acceptance of
18 the payment by the nursing home commission do not constitute conduct prohibited
19 under sub. (4), s. DHS 106.04 (3), Wis. Adm. Code, in effect on the effective date of
20 this paragraph [LRB inserts date], 42 USC 1320a-7b (d), or 42 USC 1396a (a) (25)
21 (C).

22 (END)