



2009 ASSEMBLY BILL 259

May 8, 2009 – Introduced by Representatives KRUSICK, J. OTT, PASCH, BENEDICT, BERCEAU, BLACK, CLARK, GRIGSBY, LOTHIAN, MURSAU, POPE-ROBERTS, RICHARDS, SPANBAUER, STASKUNAS, TURNER, A. WILLIAMS and ZEPNICK, cosponsored by Senators DARLING, COGGS, CARPENTER and TAYLOR, by request of Wisconsin Alzheimer’s Association Chapter Network, AARP-Wisconsin, Coalition of Wisconsin Aging Groups, Disability Rights Wisconsin, IndependenceFirst, Wisconsin Board on Aging and Long-Term Care, Wisconsin Coalition of Independent Living Centers. Referred to Committee on Aging and Long-Term Care.

1 **AN ACT** *to renumber and amend* 50.033 (6) and 50.095 (1); *to amend* 50.035
2 (11) (a), 50.095 (title), 50.095 (2), 50.095 (3m) and 50.095 (4); and *to create*
3 50.02 (6), 50.033 (2p), 50.033 (6) (b), 50.035 (10m), 50.04 (2x), 50.095 (1g),
4 50.095 (3) (d) and 50.095 (3g) of the statutes; **relating to:** the care and
5 treatment of persons with Alzheimer’s disease or related dementia in
6 residential care facilities, reports on residential care facilities, providing an
7 exemption from emergency rule procedures, requiring the exercise of
8 rule-making authority, and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Health Services (DHS) licenses or certifies various types of residential care facilities, including nursing homes, community-based residential facilities (CBRFs), and adult family homes (AFHs). Also under current law, DHS must annually give each nursing home a report that includes the following information: 1) the nursing home’s nursing staff to resident ratio; 2) staff turnover for the nursing home and for other similar nursing homes in the same geographic area; and 3) violations by the nursing home and by other similar nursing homes in the same geographic area. DHS must also give nursing homes a one-sheet summary of the report. Nursing homes must provide the summary to

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every resident and prospective resident and must make the full report available to any person who requests it.

This bill requires DHS to establish standards of care and treatment for people with Alzheimer’s disease or related dementia. The bill prohibits nursing homes, CBRFs, and AFHs from holding themselves out as providing special services for persons with Alzheimer’s disease or related dementia unless DHS determines that the facility satisfies the standards of care and treatment for people with Alzheimer’s disease or related dementia.

The bill also requires that, if a nursing home holds itself out as providing special services for persons with Alzheimer’s disease or related dementia, DHS must include in the annual report DHS gives the nursing home a description of how the nursing home satisfies the standards established by DHS for care and treatment for persons with Alzheimer’s disease or related dementia.

The bill requires DHS to annually give each CBRF and AFH a report that includes information on violations by the CBRF or AFH and by any similar CBRF or AFH in the same geographic area. In addition, if a CBRF or AFH holds itself out as providing special services for persons with Alzheimer’s disease or related dementia, DHS must include in the report a description of how the CBRF or AFH satisfies the standards established by DHS for care and treatment for persons with Alzheimer’s disease. DHS must also give each CBRF and AFH a summary of its report. The bill requires each CBRF and AFH to provide the summary to each resident and prospective resident of the CBRF or AFH.

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.** 50.02 (6) of the statutes is created to read:

2 **50.02 (6) STANDARDS FOR CARE OF PERSONS WITH ALZHEIMER’S DISEASE.** (a) The
3 department shall promulgate rules establishing standards for the care and
4 treatment of persons who have Alzheimer’s disease or related dementia that an adult
5 family home under s. 50.01 (1) (b), community-based residential facility, or nursing
6 home must satisfy to hold itself out as providing special services for persons with
7 Alzheimer’s disease or related dementia, including standards for staff training and
8 staffing levels and standards for security at the adult family home,
9 community-based residential facility, or nursing home.

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1 (b) The department shall consult with all of the following before promulgating
2 the rules required under par. (a):

3 1. The recipients of grants awarded under s. 46.856.

4 2. Representatives of adult family homes under s. 50.01 (1) (b),
5 community-based residential facilities, and nursing homes.

6 3. Residents of adult family homes under s. 50.01 (1) (b), community-based
7 residential facilities, and nursing homes.

8 4. Advocates for persons under subd. 3.

9 **SECTION 2.** 50.033 (2p) of the statutes is created to read:

10 50.033 (2p) SERVICES FOR PERSONS WITH ALZHEIMER'S DISEASE. An adult family
11 home may not hold itself out as providing special services for persons with
12 Alzheimer's disease or related dementia unless the agency that licenses the adult
13 family home under this section determines that the adult family home satisfies the
14 standards promulgated by rule under s. 50.02 (6).

15 **SECTION 3.** 50.033 (6) of the statutes is renumbered 50.033 (6) (a) and amended
16 to read:

17 50.033 (6) (a) ~~Any~~ Except as provided under par. (b), any person who violates
18 this section or rules promulgated under s. 50.02 (2) (am) 2. may be fined not more
19 than \$500 or imprisoned for not more than one year in the county jail or both.

20 **SECTION 4.** 50.033 (6) (b) of the statutes is created to read:

21 50.033 (6) (b) Any person who violates sub. (2p) may be required to forfeit not
22 more than \$500 for each day of violation.

23 **SECTION 5.** 50.035 (10m) of the statutes is created to read:

24 50.035 (10m) SERVICES FOR PERSONS WITH ALZHEIMER'S DISEASE. A
25 community-based residential facility may not hold itself out as providing special

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1 services for persons with Alzheimer’s disease or related dementia unless the
2 department determines that the community-based residential facility satisfies the
3 standards promulgated by rule under s. 50.02 (6).

4 **SECTION 6.** 50.035 (11) (a) of the statutes is amended to read:

5 50.035 (11) (a) Whoever violates sub. (4m) or (4n) or rules promulgated under
6 sub. (4m) or (4n) may be required to forfeit not more than \$500 for each violation.
7 Whoever violates sub. (10m) may be required to forfeit not more than \$500 for each
8 day of violation.

9 **SECTION 7.** 50.04 (2x) of the statutes is created to read:

10 50.04 (2x) SERVICES FOR PERSONS WITH ALZHEIMER’S DISEASE. (a) A nursing home
11 may not hold itself out as providing special services for persons with Alzheimer’s
12 disease or related dementia unless the department determines that the nursing
13 home satisfies the standards promulgated by rule under s. 50.02 (6).

14 (b) A violation of par. (a) is a class “C” violation under sub. (4) (b) 3.

15 **SECTION 8.** 50.095 (title) of the statutes is amended to read:

16 **50.095 (title) Resident’s right to know; nursing home facility reports.**

17 **SECTION 9.** 50.095 (1) of the statutes is renumbered 50.095 (1r) and amended
18 to read:

19 50.095 (1r) Every resident in or prospective resident of a ~~nursing home~~ facility
20 has the right to know certain information from the ~~nursing home~~ facility which
21 would aid an individual in assessing the quality of care provided by ~~a nursing home~~
22 the facility.

23 **SECTION 10.** 50.095 (1g) of the statutes is created to read:

24 50.095 (1g) In this section:

25 (a) “Adult family home” means an adult family home under s. 50.01 (1) (b).

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1 (b) "Facility" means an adult family home, a community-based residential
2 facility, or a nursing home.

3 **SECTION 11.** 50.095 (2) of the statutes is amended to read:

4 50.095 (2) The department may request from a ~~nursing home~~ facility
5 information necessary for preparation of a report under sub. (3) or (3g), and the
6 ~~nursing home~~ facility, if so requested, shall provide the information.

7 **SECTION 12.** 50.095 (3) (d) of the statutes is created to read:

8 50.095 (3) (d) If the nursing home holds itself out as providing special services
9 for persons with Alzheimer's disease or related dementia, a description of how the
10 nursing home satisfies the standards promulgated by rule under s. 50.02 (6) for the
11 care and treatment of persons with Alzheimer's disease or related dementia.

12 **SECTION 13.** 50.095 (3g) of the statutes is created to read:

13 50.095 (3g) By July 1 of each year, the department shall provide each adult
14 family home and community-based residential facility and the office of the
15 long-term care ombudsman with a report that includes the following information:

16 (a) Any violations of statutes or rules that the adult family home or
17 community-based residential facility and all other similar facilities in the same
18 geographical area, as determined by the department, committed in the previous
19 year.

20 (b) If the adult family home or community-based residential facility holds itself
21 out as providing special services for persons with Alzheimer's disease or related
22 dementia, a description of how the facility satisfies the standards promulgated by
23 rule under s. 50.02 (6) for the care and treatment of persons with Alzheimer's disease
24 or related dementia.

25 **SECTION 14.** 50.095 (3m) of the statutes is amended to read:

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1 50.095 (3m) The department shall prepare a simplified summary of the
2 information required under sub. (3) ~~(am) to (e)~~ for each nursing home and shall
3 prepare a summary of the information required under sub. (3g) for each adult family
4 home and community-based residential facility, as specified by rule by the
5 department. The Each summary shall be on one sheet of paper and shall be in
6 language that is easily understood by laypersons. The summary summaries for
7 nursing homes and community-based residential facilities shall state that a
8 complete copy of the most recent report of inspection of the nursing home or
9 community-based residential facility is available from the department, upon
10 request, for a minimal fee.

11 **SECTION 15.** 50.095 (4) of the statutes is amended to read:

12 50.095 (4) Upon receipt of a report under sub. (3), ~~the nursing home or (3g), a~~
13 facility shall make the report available to any person requesting the report. Upon
14 receipt of a summary under sub. (3m), ~~the nursing home~~ a facility shall provide a copy
15 of the summary to every resident of the ~~nursing home~~ facility and his or her
16 guardian, if any, to every prospective resident of the ~~nursing home~~ facility, if any, and
17 to every person who accompanies a prospective resident or acts as the prospective
18 resident's representative, as defined in s. 655.001 (12), if any.

19 **SECTION 16. Nonstatutory provisions.**

20 (1) RULE MAKING.

21 (a) The department of health services shall submit in proposed form the rules
22 required under section 50.02 (6) of the statutes, as created by this act, to the
23 legislative council staff under section 227.15 (1) of the statutes no later than the first
24 day of the 7th month beginning after the effective date of this paragraph.

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1 (b) Using the procedure under section 227.24 of the statutes, the department
2 of health services may promulgate rules required under section 50.02 (6) of the
3 statutes, as created by this act, for the period before the effective date of the rules
4 submitted under paragraph (a), but not to exceed the period authorized under section
5 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b),
6 and (3) of the statutes, the department is not required to provide evidence that
7 promulgating a rule under this paragraph as an emergency rule is necessary for the
8 preservation of the public peace, health, safety, or welfare and is not required to
9 provide a finding of emergency for a rule promulgated under this paragraph.

10 **SECTION 17. Effective dates.** This act takes effect on the first day of the 7th
11 month beginning after publication, except as follows:

12 (1) The treatment of section 50.02 (6) of the statutes and SECTION 16 of this act
13 take effect on the day after publication.

14 (END)