State of Wisconsin
1997 - 1998 LEGISLATURE

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1997 SENATE BILL 495

March 10, 1998 – Introduced by LAW REVISION COMMITTEE. Referred to Committee on Health, Human Services, Aging, Corrections, Veterans and Military Affairs.

AN ACT ***to repeal*** 46.56 (14) (a) 2., 46.974, 49.45 (41) (a) 2., 50.096 (title), 69.05 (6) and 115.28 (16); ***to renumber*** 50.095; ***to renumber and amend*** 50.096 (1), 50.096 (2) and 50.096 (3); ***to consolidate, renumber and amend*** 46.56 (14) (a) (intro.) and 1. and 49.45 (41) (a) (intro.) and 1.; ***to amend*** 46.56 (14) (c) (intro.), 46.56 (15) (c), 48.46 (1), 48.981 (3) (c) 4., 49.45 (41) (b), 50.03 (2m) (a), 50.03 (4) (e), 50.035 (6), 50.04 (2v), 50.04 (3) (d), 50.09 (4), 50.095 (title), 50.14 (3), 69.18 (1) (e) 1. (intro.), 146.82 (1), 251.04 (8), 251.06 (1) (a) 1., 255.04 (3) (intro.) and 806.07 (1) (intro.); and ***to create*** 46.275 (5) (b) 7., 46.277 (5) (f), 48.46 (3), 146.82 (2) (a) 18., 251.06 (1) (a) 3. and 806.07 (3) of the statutes; **relating to:** mental health crisis intervention services; requirements for a Level I local health officer; coordination by a local board of health of activities of a sanitarian; fetal death reports; access by a coroner, deputy coroner, medical examiner or medical examiner's assistant to patient health care records; confidentiality restrictions on cancer reports; service contracts under

community integration programs; eliminating outdated requirements for bed assessments for nursing homes and intermediate care facilities for the mentally retarded; designation by a nursing home of a person to accept service of notice or mail; required information for licenses for nursing homes and community–based residential facilities; eliminating a date for posting notice about the long–term care ombudsman program; eliminating dates for determinations that nursing homes are institutions for mental diseases; resident rights and responsibilities for residents of nursing homes and community–based residential facilities; eliminating dates for requesting and providing information about nursing homes; evaluations of integrated services projects; matching funds requirements for participants in integrated services projects; eliminating a requirement for a plan and report on school–community alcohol and drug abuse prevention and other services; eliminating a requirement that a person investigating a report of suspected or threatened emotional abuse of a child determine that the person responsible for the emotional damage is neglecting, refusing or unable for reasons other than poverty to remedy the harm; and prohibiting an adoptive parent from moving for relief from an order granting adoption or petitioning for a rehearing of such an order (suggested as remedial legislation by the department of health and family services).

Analysis by the Legislative Reference Bureau

Currently, mental health crisis intervention services are provided as a benefit under the medical assistance program by a county, city, village or town that elects to provide the services, becomes certified as a provider of the services and pays the allowable charges for the services that are not paid by the federal government. This bill eliminates the authority for a city, village or town to provide mental health crisis intervention services under the medical assistance program.

Under current law, local health departments are required to provide a minimum level of services (Level I) and may provide higher levels of service (Levels II or III). Local health officers must meet minimum requirements for each level of service provided by the local health department. For Level I, a local health officer must have at least a bachelor's degree from an accredited nursing program, although the local health officer need not meet this requirement if the county has a human services department that employs at least one person who does meet the requirement. The bill allows the local health officer of a Level I local health department to meet requirements for a Level II or III local health officer, if the local health department has more than one full–time employe, including a full–time public health nurse.

Currently, a local board of health may be governed by a county board of supervisors, by the governing body of each city or village (in Milwaukee County), or by the governing body of a village or town (in Racine County). In addition, city–county local health departments and multiple–county local health departments, if established, are governed by their relevant governing bodies. A local board of health must coordinate the activities of any sanitarian who is employed by a county's board of supervisors. The bill changes this requirement to require the local board of health to coordinate the activities of a sanitarian who is employed by the governing body of the jurisdiction that the local board of health serves.

Currently, when a spontaneous fetal death occurs, a hospital or a funeral director must file a fetal death report with the county register of deeds office or, in certain approved cities, the office of the city registrar. These offices must transmit the fetal death reports to the state registrar within 5 days and without making any copies. The bill requires that a fetal death report be filed directly with the state registrar, rather than with the county register of deeds or the city registrar.

Current law requires that all health care records be kept confidential and be released only with the informed consent of the patient or a person authorized by the patient. There are numerous exceptions to this requirement. The bill allows a coroner, deputy coroner, medical examiner or medical examiner's assistant access to the health care record of a person who has died, in order to complete a death certificate or investigate the death. The bill also authorizes the patient's health care provider to release unrequested information by contacting the office of the coroner or medical examiner.

Currently, every hospital, physician and federally certified laboratory must report to the department of health and family services (DHFS) information concerning persons who are diagnosed as having cancer or a precancerous condition. The identity of the diagnosed person and the person submitting the report may not be disclosed by DHFS except to a central tumor registry in another state or to the national tumor registry. The bill changes the cancer reporting requirement to apply confidentiality restrictions to the physician, rather than the person, submitting the report.

Currently, community options program funds may be used for services in a community–based residential facility (C–BRF) only if the service contract used is a model contract that has been developed by DHFS. The bill applies this same

requirement to the community integration programs for residents of state centers for the developmentally disabled, for developmentally disabled persons and for persons who are relocated from nursing homes or who meet certain standards of care.

Currently, DHFS imposes assessments of $32 per calendar month per occupied, licensed bed of a nursing home and $100 per calendar month per occupied, licensed bed of an intermediate care facility for the mentally retarded. By October 31, 1992, each of these facilities was required to submit to DHFS the occupied licensed bed count and the amount due under the assessment from July 1 to September 30, 1992. Thereafter, each facility must submit its bed count and payment for the month preceding the month of submittal. This bill eliminates references to requirements for 1992.

Currently, each nursing home and C–BRF licensee or applicant for licensure must file with DHFS the name and address of a person who is authorized to accept service of notice or other matters sent by DHFS by registered or certified mail. This bill requires that the person authorized by a nursing home to accept service and registered or certified mail be located at the nursing home.

Licenses for nursing homes and C–BRFs currently must state the maximum bed capacity of the nursing home or C–BRF. The bill changes that requirement to instead require that nursing home and C–BRF licenses state the number of beds of the nursing home or C–BRF that are licensed by DHFS.

Under current law, beginning on January 1, 1992, each nursing home and C–BRF must post in a conspicuous location a notice about the long–term care ombudsman program. The bill eliminates the date by which nursing homes and C–BRFs must post notices about the long–term care ombudsman program.

Under current law, DHFS was required, before July 1, 1988, to conduct surveys to determine whether any licensed nursing home was an institution for mental diseases (and thus ineligible for federal medical assistance reimbursement). Beginning July 1, 1988, DHFS is required to make these determinations during biennial inspections of nursing homes. The bill eliminates the requirement that DHFS make determinations before July 1, 1988, as to whether a nursing home is an institution for mental diseases and eliminates the beginning date for these determinations to be made during biennial inspections of nursing homes.

Currently, each nursing home or C–BRF must make available a copy of resident rights and responsibilities to each resident and resident's guardian at or before admission, to each person who was a resident of the C–BRF or nursing home on December 12, 1975, and to staff members. The bill eliminates the date requirement for provision of copies of resident rights and responsibilities to residents of nursing homes and C–BRFs. The bill also requires that the copies be made available to a resident's legal representative, rather than a resident's guardian.

Under current law, beginning in 1988, DHFS has authority to request from nursing homes information about staffing ratios, staff replacement rates and violations of statutes or rules in the previous year. Beginning July 1, 1988, and annually thereafter, DHFS must provide nursing homes with a report about this information; nursing homes must make the report available to anyone who requests it. The bill eliminates references to dates and makes minor technical changes.

Under current law, participants in integrated services projects (also known as "Children Come First" projects), for care for children with severe disabilities and their families, must provide matching funds equal to 20% of the proposed funding. The bill changes the matching fund requirement to be 20% of the proposed total program budget.

Currently, a DHFS advisory committee supporting development of integrated services projects was required, by August 9, 1991, to submit an evaluation report. DHFS also was required to evaluate the projects by January 1, 1992, and to submit a report to various entities. The bill eliminates the requirement that the DHFS advisory committee submit a report evaluating integrated services projects. The bill also eliminates required submittal of the evaluation report and the date by which DHFS must evaluate the projects.

Currently, DHFS and the department of public instruction must prepare a plan about school–community alcohol and drug abuse prevention, intervention, treatment and rehabilitation services and must biennially submit a report to the legislature on plan implementation. The bill eliminates these requirements.

Under current law, a county department of human services or social services (county department) or, in a county having a population of 500,000 or more (Milwaukee County), DHFS or a licensed child welfare agency under contract with DHFS must determine, within 60 days after receiving a report of suspected or threatened child abuse, whether abuse, including emotional abuse, has occurred. Current law requires a county department or, in Milwaukee County, DHFS or a licensed child welfare agency under contract with DHFS, in making a determination that emotional damage has occurred, to give due regard to the culture of the subjects and to establish that the *person alleged to be responsible for the emotional damage* is neglecting, refusing or unable for reasons other than poverty to remedy the harm. Current law, however, defines emotional "abuse" as emotional damage for which *the child's parent, guardian or legal custodian* has neglected, refused or been unable for reasons other than poverty to obtain the necessary treatment or to take steps to ameliorate the symptoms.

This bill eliminates the requirement that a county department or, in Milwaukee County, DHFS or a licensed child welfare agency under contract with DHFS, in making a determination that emotional damage has occurred, establish that the person alleged to be responsible for the emotional damage is neglecting, refusing or unable for reasons other than poverty to remedy the harm.

Under current law, a court may relieve a party from a judgment or order for various reasons such as mistake, inadvertence, surprise, excusable neglect, newly discovered evidence, fraud of an adverse party or any other reason justifying relief from the operation of the judgment. Also under current law, the parent of a child whose status is adjudicated by the court assigned to exercise jurisdiction under the children's code (juvenile court) may at any time within one year after the entering of the juvenile court's order petition the juvenile court for a rehearing on the grounds that new evidence has been discovered affecting the advisability of the juvenile court's original adjudication.

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This bill prohibits an adoptive parent from moving for relief from an order granting adoption of a child and from petitioning the juvenile court for a rehearing of such an order. Under the bill, the exclusive remedies for an adoptive parent who wishes to end his or her parental relationship with his or her adoptive child are a petition for termination of parental rights and an appeal to the court of appeals.

For further information, see the NOTES provided by the law revision committee of the joint legislative council.

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:

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the department of health and family services and introduced by the law revision committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

SECTION 1. 46.275 (5) (b) 7. of the statutes is created to read:

46.275 **(5)** (b) 7. Provide services in any community–based residential facility unless the county or department uses as a service contract the approved model contract developed under s. 46.27 (2) (j) or a contract that includes all of the provisions of the approved model contract.

SECTION 2. 46.277 (5) (f) of the statutes is created to read:

46.277 **(5)** (f) No county or private nonprofit agency may use funds received under this subsection to provide services in any community–based residential facility unless the county or agency uses as a service contract the approved model contract developed under s. 46.27 (2) (j) or a contract that includes all of the provisions of the approved model contract.

NOTE: The amendments in SECTIONS 1 and 2 require the use of the approved model contract under s. 46.27 (2) (j), or a similar contract, when providing services in any community–based residential facility (CBRF) under the community integration program (CIP) I–A or I–B. According to the Department of Health and Family Services (DHFS), the use of this model contract is currently required for persons receiving services in a CBRF under the community options program (COP). Because funds from both COP and

CIP I–A and I–B may be used to fund care in a particular CBRF, it would eliminate confusion to have only one contract format in use for providers to review and sign.

SECTION 3. 46.56 (14) (a) (intro.) and 1. of the statutes, as affected by 1997 Wisconsin Act 3, are consolidated, renumbered 46.56 (14) (a) and amended to read:

46.56 **(14)** (a) In order to support the development of a comprehensive system of coordinated care for children with severe disabilities and their families, the department shall establish a statewide advisory committee with representatives of county departments, the department of public instruction, educational agencies, professionals experienced in the provision of services to children with severe disabilities, families with children with severe disabilities, advocates for such families and their children, the subunit of the department of workforce development that administers vocational rehabilitation, the technical college system, health care providers, courts assigned to exercise jurisdiction under chs. 48 and 938, child welfare officials, and other appropriate persons as selected by the department. The department may use an existing committee for this purpose if it has representatives from the listed groups and is willing to perform the required functions. This committee shall ~~do all of the following: Monitor~~ monitor the development of programs throughout the state and support communication and mutual assistance among operating programs as well as those that are being developed.

SECTION 4. 46.56 (14) (a) 2. of the statutes is repealed.

SECTION 5. 46.56 (14) (c) (intro.) of the statutes is amended to read:

46.56 **(14)** (c) (intro.) The department shall evaluate the programs funded under this section. ~~The report of this evaluation shall be submitted to the chief clerk of each house of the legislature for distribution to the appropriate standing committees on children, in the manner provided in s. 13.172 (3), and shall be broadly~~

~~disseminated to county departments and school districts. The evaluation shall be completed by January 1, 1992 and all~~ All organizations participating in the program shall cooperate with the evaluation. The evaluation shall include information about all of the following:

SECTION 6. 46.56 (15) (c) of the statutes is amended to read:

46.56 **(15)** (c) In order to obtain funds under this section, matching funds equal to 20% of the proposed total program budget, including the requested funding, shall be provided by the participating county departments and school districts. All of the participating county departments and school districts shall participate in providing the match, which may be cash or in–kind. The department shall determine what may be used as in–kind match.

NOTE: The amendments in SECTIONS 3 to 6 eliminate outdated provisions regarding specific evaluation due dates of programs for children with severe emotional disturbances and also eliminate outdated provisions regarding dissemination of these evaluations. Further, these amendments modify the matching fund requirement for these projects from 20% of the requested funding to 20% of the proposed total program budget. According to the DHFS, this change to the matching funds requirement would codify current practice.

SECTION 7. 46.974 of the statutes, as affected by 1997 Wisconsin Act 27, is repealed.

NOTE: This provision deletes a requirement that the DHFS prepare, in cooperation with the department of public instruction, a joint alcohol and drug abuse prevention plan. According to the DHFS, the elimination of this requirement will allow the State Council on Alcohol and Other Drug Abuse to determine how interdepartmental collaboration and reporting will occur.

SECTION 8. 48.46 (1) of the statutes is amended to read:

48.46 **(1)** Except as provided in ~~sub.~~ subs. (2) and (3), the parent, guardian or legal custodian of the child or the child whose status is adjudicated by the court may at any time within one year after the entering of the court's order petition the court for a rehearing on the ground that new evidence has been discovered affecting the

advisability of the court's original adjudication. Upon a showing that such evidence does exist, the court shall order a new hearing.

SECTION 9. 48.46 (3) of the statutes is created to read:

48.46 **(3)** An adoptive parent who has been granted adoption of a child under s. 48.91 (3) may not petition the court for a rehearing under sub. (1) or move the court under s. 806.07 for relief from the order granting adoption. A petition for termination of parental rights under s. 48.42 and an appeal to the court of appeals shall be the exclusive remedies for an adoptive parent who wishes to end his or her parental relationship with his or her adopted child.

NOTE: The amendments in SECTIONS 8 and 9 prohibit an adoptive parent from ending his or her parental relationship with his or her adopted child through a motion under s. 806.07 (1), stats., for relief from the order granting adoption or through a petition for a rehearing of such an order. Instead, an adoptive parent who wishes to end his or her parental relationship with his or her adopted child would be required to file a petition for termination of parental rights under s. 48.42, stats., or to appeal the order granting adoption.

SECTION 10. 48.981 (3) (c) 4. of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

48.981 **(3)** (c) 4. The county department or, in a county having a population of 500,000 or more, the department or a licensed child welfare agency under contract with the department shall determine, within 60 days after receipt of a report, whether abuse or neglect has occurred or is likely to occur. The determination shall be based on a preponderance of the evidence produced by the investigation. A determination that abuse or neglect has occurred may not be based solely on the fact that the child's parent, guardian or legal custodian in good faith selects and relies on prayer or other religious means for treatment of disease or for remedial care of the child. In making a determination that emotional damage has occurred, the county department or, in a county having a population of 500,000 or more, the department

or a licensed child welfare agency under contract with the department shall give due regard to the culture of the subjects ~~and shall establish that the person alleged to be responsible for the emotional damage is neglecting, refusing or unable for reasons other than poverty to remedy the harm~~. This subdivision does not prohibit a court from ordering medical services for the child if the child's health requires it.

NOTE: The amendment in SECTION 10 deletes obsolete language in the statute regarding determinations of child abuse or neglect which requires the agency making the determination, in cases of emotional damage, to establish that the person alleged to be responsible for the emotional damage is neglecting, refusing or unable for reasons other than poverty to remedy the harm. The requirement that a parent, guardian, legal custodian or other person exercising permanent or temporary control over the child must have caused the emotional damage was repealed in the 1993–94 legislative session. Also, the requirement that the parent, guardian or legal custodian must have neglected, refused or been unable for reasons other than poverty to obtain the necessary treatment or to take steps to ameliorate the symptoms was incorporated into the definition of "abuse" in the 1995–96 legislative session.

SECTION 11. 49.45 (41) (a) (intro.) and 1. of the statutes are consolidated, renumbered 49.45 (41) (a) and amended to read:

49.45 **(41)** (a) In this subsection~~: "Mental~~, "mental health crisis intervention services" means services that are provided by a mental health crisis intervention program operated by, or under contract with, a county ~~or municipality~~, if the county ~~or municipality~~ is certified as a medical assistance provider.

SECTION 12. 49.45 (41) (a) 2. of the statutes is repealed.

SECTION 13. 49.45 (41) (b) of the statutes is amended to read:

49.45 **(41)** (b) If a county ~~or municipality~~ elects to become certified as a provider of mental health crisis intervention services, the county ~~or municipality~~ may provide mental health crisis intervention services under this subsection in the county ~~or municipality~~ to medical assistance recipients through the medical assistance program. A county ~~or municipality~~ that elects to provide the services shall pay the amount of the allowable charges for the services under the medical assistance

program that is not provided by the federal government. The department shall reimburse the county ~~or municipality~~ under this subsection only for the amount of the allowable charges for those services under the medical assistance program that is provided by the federal government.

NOTE: The amendments in SECTIONS 11 to 13 remove references to municipalities in the statutes relating to mental health crisis intervention services. According to the DHFS, these amendments are necessary because under s. 51.42 counties, not municipalities, are responsible for mental health crisis intervention services, and new DHFS standards identify counties, or agencies contracting with counties, as the appropriate entities for certification to provide these services.

SECTION 14. 50.03 (2m) (a) of the statutes is amended to read:

50.03 **(2m)** (a) Each licensee or applicant for license shall file with the department the name and address of a person authorized to accept service of any notices or other papers which the department may send by registered or certified mail, with a return receipt requested. The person authorized by a nursing home under this paragraph shall be located at the nursing home.

NOTE: The amendment in SECTION 14 provides that a licensee or applicant for license which is a nursing home must file with the DHFS the name and address of a person who is located at the nursing home and is authorized to accept service of any notices or other papers which DHFS may send by registered or certified mail, with a return receipt requested. According to the DHFS, this change is needed because notices may currently be sent to nursing home corporate offices, which may be distant from the nursing homes being inspected and does not facilitate the smooth and efficient transfer of information between the nursing home and the DHFS.

SECTION 15. 50.03 (4) (e) of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

50.03 **(4)** (e) Each license shall be issued only for the premises and persons named in the application and is not transferable or assignable. The license shall be posted in a place readily visible to residents and visitors, such as the lobby or reception area of the facility. Any license granted shall state the ~~maximum bed capacity allowed~~ number of the facility's beds that are licensed by the department, the person to whom the license is granted, the date of issuance, the maximum level

of care for which the facility is licensed as a condition of its licensure and such additional information and special conditions as the department may prescribe.

NOTE: The amendment in SECTION 15 provides that a license for a nursing home shall state the number of beds approved by the DHFS, rather than the maximum bed capacity allowed. According to the DHFS, the term "maximum bed capacity" in the current statute refers to the maximum number of beds that a nursing home could physically accommodate. Since the DHFS regulates the number and distribution of nursing home beds, the representation and reporting of the actual number of beds operated by a nursing home on the nursing home's license would more accurately reflect reality.

SECTION 16. 50.035 (6) of the statutes is amended to read:

50.035 **(6)** POSTING OF NOTICE REQUIRED. ~~Beginning on January 1, 1992, the~~ The licensee of a community–based residential facility, or his or her designee, shall post in a conspicuous location in the community–based residential facility a notice, provided by the board on aging and long–term care, of the name, address and telephone number of the long–term care ombudsman program under s. 16.009 (2) (b).

NOTE: The amendment in SECTION 16 deletes an outdated reference to the date that a posting requirement for CBRF licenses went into effect.

SECTION 17. 50.04 (2v) of the statutes is amended to read:

50.04 **(2v)** POSTING OF NOTICE REQUIRED. ~~Beginning on January 1, 1992, a~~ A nursing home shall post in a conspicuous location in the nursing home a notice, provided by the board on aging and long–term care, of the name, address and telephone number of the long–term care ombudsman program under s. 16.009 (2) (b).

NOTE: The amendment in SECTION 17 deletes an outdated reference to the date that a posting requirement for nursing home ombudsman program information went into effect.

SECTION 18. 50.04 (3) (d) of the statutes is amended to read:

50.04 **(3)** (d) *Survey of institutions for mental diseases.* ~~Before July 1, 1988~~ During inspections conducted under par. (a), the department shall conduct a survey to determine whether any nursing home that is licensed under this section is an institution for mental diseases, as defined under 42 CFR 435.1009. ~~On or after July~~

~~1, 1988, the department shall make these determinations during inspections conducted under par. (a).~~

NOTE: The amendment in SECTION 18 deletes an outdated reference to a date by which the DHFS had to conduct a survey to determine whether any licensed nursing home was an institution for mental disease.

SECTION 19. 50.09 (4) of the statutes is amended to read:

50.09 **(4)** Each facility shall make available a copy of the rights and responsibilities established under this section and the facility's rules to each resident and ~~to~~ each resident's ~~guardian~~ legal representative, if any, at or prior to the time of admission to the facility, to each person who is a resident of the facility ~~on December 12, 1975~~ and to each member of the facility's staff. The rights, responsibilities and rules shall be posted in a prominent place in each facility. Each facility shall prepare a written plan and provide appropriate staff training to implement each resident's rights established under this section.

NOTE: The amendments in SECTION 19 change a reference to a nursing home resident's guardian to a nursing home resident's legal representative. According to the DHFS, the broader term "legal representative" is more appropriate here because it encompasses other substitute decision makers who may exist for nursing home residents, such as those acting under a health care power of attorney. In addition, an outdated reference to a date that the requirement that a copy of certain information be given to the resident and his or her guardian went into effect is deleted.

SECTION 20. 50.095 (title) of the statutes is amended to read:

50.095 (title) **Resident's right to know; nursing home reports.**

SECTION 21. 50.095 of the statutes is renumbered 50.095 (1).

SECTION 22. 50.096 (title) of the statutes is repealed.

SECTION 23. 50.096 (1) of the statutes is renumbered 50.095 (2) and amended to read:

50.095 **(2)** ~~Beginning in 1988, the~~ The department may request from a nursing home information necessary for preparation of a report under sub. ~~(2)~~ (3), and the nursing home, if so requested, shall provide the information.

SECTION 24. 50.096 (2) of the statutes is renumbered 50.095 (3), and 50.095 (3) (intro.), as renumbered, is amended to read:

50.095 **(3)** (intro.) ~~By July 1, 1988, and annually thereafter, the~~ The department shall provide each nursing home with a report that includes the following information for the nursing home:

SECTION 25. 50.096 (3) of the statutes is renumbered 50.095 (4) and amended to read:

50.095 **(4)** Upon receipt of a report under sub. ~~(2)~~ (3), the nursing home shall make the report available to any person requesting the report.

NOTE: The amendments in SECTIONS 20 to 25 delete outdated references to beginning dates authorizing the DHFS to request information from nursing homes, and requiring that DHFS provide each nursing home with an annual report.

SECTION 26. 50.14 (3) of the statutes is amended to read:

50.14 **(3)** By ~~October 31, 1992, each facility shall submit to the department the facility's occupied licensed bed count and the amount due under sub. (2) for each occupied licensed bed of the facility for each month for the period from July 1, 1992, to September 30, 1992. Thereafter, by~~ the end of each month, each facility shall submit ~~its~~ to the department the facility's occupied licensed bed count and ~~payment~~ the amount due under sub. (2) for each occupied licensed bed of the facility for the month preceding the month during which the bed count and payment are being submitted. The department shall verify the bed count and, if necessary, make adjustments to the payment, notify the facility of changes in the bed count or payment and send the facility an invoice for the additional amount due or send the facility a refund.

NOTE: The amendment in SECTION 26 deletes outdated references to dates by which inpatient health care facility bed counts and payments are due the DHFS.

SECTION 27. 69.05 (6) of the statutes is repealed.

SECTION 28. 69.18 (1) (e) 1. (intro.) of the statutes is amended to read:

69.18 **(1)** (e) 1. (intro.) If a death is a miscarriage and 20 weeks or more have elapsed between the mother's last normal menstrual period and delivery or the stillbirth weighs 350 grams or more, one of the following shall submit, within 5 days after delivery, a fetal death report to the ~~registration district where delivery occurred~~ state registrar:

NOTE: Under current law, fetal death reports must first be filed at the local registration office in the place where the fetus was delivered. Local registrars are then required to forward these reports to the state registrar of vital statistics. The amendments in SECTIONS 27 and 28 change current law to require filing of fetal death reports directly with the state registrar. According to the DHFS, this change will speed up the filing process for these documents; decrease the risk that confidential information could become public; and decrease mailing and other costs currently incurred by local registrars in handling these reports.

SECTION 29. 115.28 (16) of the statutes is repealed.

SECTION 30. 146.82 (1) of the statutes is amended to read:

146.82 **(1)** CONFIDENTIALITY. All patient health care records shall remain confidential. Patient health care records may be released only to the persons designated in this section or to other persons with the informed consent of the patient or of a person authorized by the patient. This subsection does not prohibit reports made in compliance with s. 146.995 or 979.01 or testimony authorized under s. 905.04 (4) (h).

SECTION 31. 146.82 (2) (a) 18. of the statutes is created to read:

146.82 **(2)** (a) 18. Following the death of a patient, to a coroner, deputy coroner, medical examiner or medical examiner's assistant, for the purpose of completing a medical certificate under s. 69.18 (2) or investigating a death under s. 979.01 or 979.10. The health care provider may release information by initiating contact with the office of the coroner or medical examiner without receiving a request for release of the information and shall release information upon receipt of an oral or written

request for the information from the coroner, deputy coroner, medical examiner or medical examiner's assistant. The recipient of any information under this subdivision shall keep the information confidential except as necessary to comply with s. 69.18, 979.01 or 979.10.

NOTE: Under current law, coroners and medical examiners are not included as parties who are granted access to medical records without informed consent of the next of kin or through a subpoena. According to the DHFS, this conflicts with the statutory responsibility of these officials to perform certain duties connected with deaths. The amendments in SECTIONS 30 and 31 provide that coroners and medical examiners may have access to certain health care records in order to perform their duties.

SECTION 32. 251.04 (8) of the statutes is amended to read:

251.04 **(8)** Unless the manner of employment is otherwise provided for by ordinance, a local board of health shall employ qualified public health professionals, including a public health nurse to conduct general public health nursing programs under the direction of the local board of health and in cooperation with the department, and may employ one or more sanitarians to conduct environmental programs and other public health programs not specifically designated by statute as functions of the public health nurse. The local board of health shall coordinate the activities of any sanitarian employed by the ~~county board~~ governing body of the jurisdiction that the local board of health serves. The local board of health is not required to employ different persons to perform these functions.

NOTE: Under current law, a local board of health must employ qualified public health professionals. The local board of health is required to coordinate activities of any sanitarian employed by the county board. According to the DHFS, this statute, as presently worded, would give authority to the boards of health of cities, villages and towns to coordinate the activities of sanitarians employed by county boards. The amendment in SECTION 32 would eliminate the authority for a local board of health of one unit of local government to coordinate activities to employes of a separate unit of local government.

SECTION 33. 251.06 (1) (a) 1. of the statutes is amended to read:

251.06 **(1)** (a) 1. Except as provided in subd. 2. or 3., a local health officer of a Level I local health department shall have at least a bachelor's degree from a nursing

program accredited by the national professional nursing education accrediting organization or from a nursing program accredited by the board of nursing.

SECTION 34. 251.06 (1) (a) 3. of the statutes is created to read:

251.06 **(1)** (a) 3. If there is more than one full–time employe of a Level I local health department, including a full–time public health nurse who meets the qualifications specified under s. 250.06, the local health officer may meet the qualifications of a Level II or Level III local health officer.

NOTE: Under current law, there are Level I, II and III local health departments. Currently, statutes permit an appropriately qualified individual who is not a nurse to direct a Level II or III local health department, but permit only a nurse to direct a Level I health department. The amendments in SECTIONS 33 and 34 permit a Level I local health officer to meet the qualifications of a Level II or III health officer, if there is more than one full–time employe in a Level I health department and as long as the health department employs a full time professional nurse who is qualified under s. 250.06 stats.

SECTION 35. 255.04 (3) (intro.) of the statutes is amended to read:

255.04 **(3)** (intro.) Any information reported to the department under sub. (1) or (5) which could identify any individual who is the subject of the report or ~~the person~~ a physician submitting the report shall be confidential and may not be disclosed by the department except to the following:

NOTE: Under current law, the cancer reporting system has been unable to respond to requests for aggregate information on cancer cases treated by hospitals, clinics and laboratories, based on the interpretation that s. 255.04 (3) requires the identities of these reporting entities to be kept confidential. The amendment in SECTION 35 provides that only "physicians" are subject to this confidentiality requirement, not the broader category of "persons", which has been interpreted to include hospitals, clinics and laboratories. According to the DHFS, this change will enable the cancer reporting system to respond to requests for aggregate data on cancer cases treated by hospitals, clinics and laboratories.

SECTION 36. 806.07 (1) (intro.) of the statutes is amended to read:

806.07 **(1)** (intro.) On motion and upon such terms as are just, the court, subject to subs. (2) and (3), may relieve a party or legal representative from a judgment, order or stipulation for the following reasons:

SECTION 37. 806.07 (3) of the statutes is created to read:

806.07 **(3)** A motion under this section may not be made by an adoptive parent to relieve the adoptive parent from a judgment or order under s. 48.91 (3) granting adoption of a child. A petition for termination of parental rights under s. 48.42 and an appeal to the court of appeals shall be the exclusive remedies for an adoptive parent who wishes to end his or her parental relationship with his or her adoptive child.

NOTE: The amendments in SECTIONS 36 and 37 provide that an adoptive parent may not make a motion under s. 806.07 (3) to be relieved from a judgment or order under s. 48.91 (3) granting the adoption of a child. The amendments clarify, together with the provisions in SECTIONS 8 and 9 of this bill, that a petition for termination of parental rights is the exclusive remedy for an adoptive parent who wishes to end his or her parental relationship with his or her adoptive child.

SECTION 38. Initial applicability; health and family services.

(1) CONTRACTS FOR COMMUNITY INTEGRATION PROGRAM CARE IN COMMUNITY–BASED RESIDENTIAL FACILITIES. The treatment of sections 46.275 (5) (b) 7. and 46.277 (5) (f) of the statutes first applies to contracts under section 46.275 (5), 46.277 (5) or 46.278 (6) of the statutes that are issued, renewed, modified or extended on the effective date of this subsection.

(2) BED APPROVAL ON NURSING HOME AND COMMUNITY–BASED RESIDENTIAL FACILITY LICENSES. The treatment of section 50.03 (4) (e) of the statutes first applies to licenses for nursing homes and community–based residential facilities that are issued, renewed, modified or extended on the effective date of this subsection.

(END)