



(Seor) (D-NOTE)  
State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-01837/1 P2  
TAY:jl:lp  
RMR

DOA:.....de Boor - TB/communicable diseases

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

do not gen

1 AN ACT ...; relating to: tuberculosis and other communicable diseases.

*Analysis by the Legislative Reference Bureau*  
**HEALTH AND HUMAN SERVICES** ✓  
**HEALTH** ✓

This is a preliminary draft. An analysis will be provided in a later version.

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

2 SECTION 1. 20.435 (5) (e) of the statutes is amended to read:

3 20.435 (5) (e) *Disease aids.* Biennially, the amounts in the schedule for  
4 assisting victims of diseases, as provided in ss. 49.68, 49.683, 49.685, ~~58.06~~, 252.08  
5 (~~4~~) and (~~5~~) and 252.10 (6) and (7), as allocated by the department. strike

INSERT  
1-5

6 SECTION 2. 46.18 (1) of the statutes is amended to read:

7 46.18 (1) TRUSTEES. Every county home, infirmary, hospital, ~~tuberculosis~~  
8 ~~hospital or sanatorium~~, or similar institution, shall, subject to regulations approved

1 by the county board, be managed by a board of trustees, electors of the county, chosen  
2 by ballot by the county board. At its annual meeting, the county board shall appoint  
3 an uneven number of trustees, from 3 to 9 at the option of the board, for staggered  
4 3-year terms ending the first Monday in January. Any vacancy shall be filled for the  
5 unexpired term by the county board; but the chairperson of the county board may  
6 appoint a trustee to fill the vacancy until the county board acts.

\*\*\*\*NOTE: Does this subsection need to be amended further, for example to exclude  
the term "tuberculosis hospital"?

7 **SECTION 3.** 46.20 (1) of the statutes is amended to read:

8 46.20 (1) Any 2 or more counties may jointly, by majority vote of all the  
9 members of each county board, provide for a county home, infirmary, hospital,  
10 ~~tuberculosis hospital or sanatorium~~, or similar institution, or juvenile detention  
11 home, which shall be established, maintained and operated pursuant to all the  
12 statutes relating to the establishment, maintenance and operation of similar  
13 institutions, respectively, by any single county whose population is less than  
14 250,000, except as otherwise provided in this section; and in all respects, except as  
15 herein specified, each such institution shall be the county institution of each of the  
16 counties so joining.

\*\*\*\*NOTE: Does this subsection need to be amended further, for example to exclude  
the term "tuberculosis hospital"?

17 **SECTION 4.** 46.20 (3) of the statutes is amended to read:

18 46.20 (3) Upon approval of the site, plans and specifications, as provided in s.  
19 ~~252.073 as to tuberculosis sanatoriums~~ and ss. 46.17 and 301.37, as to other  
20 institutions, the joint committee shall report to the several county boards the  
21 estimated cost of the site and buildings, and the amount thereof chargeable to each  
22 county on the basis set forth in sub. (6) (a), appending to each report a copy of the

1 plans and specifications and all matter relating to the site and buildings. If the report  
2 is approved by each county board, the joint committee shall purchase the site and  
3 cause the buildings to be erected in accordance with the plans and specifications.

4 **SECTION 5.** 46.20 (8) of the statutes is repealed.

5 **SECTION 6.** 46.20 (10) of the statutes is repealed.

6 **SECTION 7.** 48.60 (2) (d) of the statutes is amended to read:

7 48.60 (2) (d) A hospital, maternity hospital, maternity home, or nursing home  
8 ~~or tuberculosis sanatorium~~ licensed, approved or supervised by the department;

9 **SECTION 8.** 49.08 of the statutes is amended to read:

10 **49.08 Recovery of relief and other assistance.** If any person is the owner  
11 of property at the time of receiving general relief under ch. 49, 1993 stats., relief  
12 funded by a relief block grant or other assistance as an inmate of any county or  
13 municipal institution in which the state is not chargeable with all or a part of the  
14 inmate's maintenance or as a tuberculosis patient provided for in ss. ~~58.06 and~~ ↙  
15 252.07 to 252.10, or at any time thereafter, or if the person becomes self-supporting,  
16 the authorities charged with the care of the dependent, or the board in charge of the  
17 institution, may sue for the value of the relief or other assistance from the person or  
18 the person's estate. Except as otherwise provided in this section, the 10-year statute  
19 of limitations may be pleaded in defense in an action to recover relief or other  
20 assistance. Where the recipient of relief or other assistance is deceased, a claim may  
21 be filed against the decedent's estate and the statute of limitations specified in s.  
22 859.02 shall be exclusively applicable. The court may refuse to render judgment or  
23 allow the claim in any case where a parent, spouse, surviving spouse or child is  
24 dependent on the property for support. The court in rendering judgment shall take  
25 into account the current family budget requirement as fixed by the U.S. department

1 of labor for the community or as fixed by the authorities of the community in charge  
2 of public assistance. The records kept by the municipality, county or institution are  
3 prima facie evidence of the value of the relief or other assistance furnished. This  
4 section shall not apply to any person who receives care for pulmonary tuberculosis  
5 as provided in s. 252.08 (4).

6 **SECTION 9.** 50.135 (1) of the statutes is amended to read:

7 50.135 (1) DEFINITION. In this section, "inpatient health care facility" means  
8 any hospital, nursing home, county home, county mental hospital, tuberculosis  
9 sanatorium or other place licensed or approved by the department under ss. 49.70,  
10 49.71, 49.72, 50.02, 50.03, 50.35, 51.08, <sup>and</sup> 51.09, ~~and 58.06, 252.073 and 252.076~~, but  
11 does not include community-based residential facilities.

12 **SECTION 10.** 50.39 (2) of the statutes is amended to read:

13 50.39 (2) The use of the title "hospital" to represent or identify any facility  
14 which does not meet the definition of a "hospital" as provided herein or is not subject  
15 to approval under ss. 50.32 to 50.39 is prohibited, except that institutions governed  
16 by ss. s. 51.09 ~~and 252.073~~ are exempt.

17 **SECTION 11.** 50.39 (3) of the statutes is amended to read:

18 50.39 (3) Facilities governed by ss. 45.365, 48.62, 49.70, 49.72, 50.02, 51.09, <sup>←</sup>  
19 ~~58.06, 252.073, 252.076~~ and 252.10, secured correctional facilities as defined in s.  
20 938.02 (15m), correctional institutions governed by the department of corrections  
21 under s. 301.02 and the offices and clinics of persons licensed to treat the sick under  
22 chs. 446, 447 and 448 are exempt from ss. 50.32 to 50.39. Sections 50.32 to 50.39 do  
23 not abridge the rights of the medical examining board, physical therapists affiliated  
24 credentialing board, podiatrists affiliated credentialing board, dentistry examining

1 board, pharmacy examining board, chiropractic examining board and board of  
2 nursing in carrying out their statutory duties and responsibilities.

Fix  
Component  
3

3 **SECTION 12.** 58.06<sup>✓</sup> of the statutes is <sup>repealed</sup> amended to read:

4 **58.06 Private tuberculosis sanatoriums.** Any private, philanthropic  
5 tuberculosis sanatorium organized on a nonprofit basis, if approved by the  
6 department, may admit patients committed to it by any county, or transferred to it  
7 by the department, or referred to it for outpatient service, in the manner and upon  
8 the terms provided by ~~ss. 252.08 and s. 252.10~~ except that the sanatorium may add  
9 actual interest expense to charges made for the cost of care to recover the costs in  
10 carrying the charges and 10% to the charges to generate sufficient earnings in  
11 addition to depreciation accruals to provide funds to cover replacement costs for  
12 buildings, fixtures and equipment.

\*\*\*\*NOTE: Should this section be repealed or amended further?

13 **SECTION 13.** 101.123 (1) (b) of the statutes is amended to read:

14 101.123 (1) (b) "Inpatient health care facility" means a county home  
15 established under s. 49.70, a county infirmary established under s. 49.72, or a  
16 community-based residential facility or a nursing home licensed under s. 50.03 or  
17 a tuberculosis sanatorium established under s. 58.06, 252.073 or 252.076.

Fix  
Component  
18

18 **SECTION 14.** 102.26 (2m)<sup>+</sup> of the statutes is <sup>repealed</sup> amended to read:

19 102.26 (2m) In any action for the recovery of costs of hospitalization in a  
20 tuberculosis sanatorium, where such cost was incurred by a patient whose  
21 tuberculosis entitled the patient to worker's compensation, no attorney fee for the  
22 recovery of such cost shall be allowed to the attorney for such patient in such worker's  
23 compensation action, unless, by express agreement with the governing board of such

1 institution the attorney has been retained by such governing board to also act as its  
2 attorney.

\*\*\*NOTE: Should this subsection be repealed or amended in some way?

3 **SECTION 15.** 102.42 (6) of the statutes is amended to read:

4 102.42 (6) TREATMENT REJECTED BY EMPLOYEE. Unless the employe shall have  
5 elected Christian Science treatment in lieu of medical, surgical, dental, hospital or  
6 sanatorium treatment, no compensation shall be payable for the death or disability  
7 of an employe, if the death be caused, or insofar as the disability may be aggravated,  
8 caused or continued by an unreasonable refusal or neglect to submit to or follow any  
9 competent and reasonable medical, surgical or dental treatment or, in the case of  
10 tuberculosis, by refusal or neglect to submit to or follow hospital ~~or sanatorium~~  
11 <sup>or medical</sup> treatment when found by the department to be necessary. The right to compensation  
12 accruing during a period of refusal or neglect to submit to or follow hospital ~~or~~  
13 ~~sanatorium~~ <sup>or medical</sup> treatment when found by the department to be necessary in the case of  
14 tuberculosis shall be barred, irrespective of whether disability was aggravated,  
15 caused or continued thereby.

\*\*\*NOTE: Should this subsection be amended further, for example to exclude  
"hospital"?

16 **SECTION 16.** 146.819 (4) (e) of the statutes is repealed.

17 **SECTION 17.** 150.84 (2) of the statutes is amended to read:

18 150.84 (2) "Health care facility" means a facility, as defined in s. 647.01 (4), or  
19 any hospital, nursing home, community-based residential facility, county home,  
20 county infirmary, county hospital, county mental health center, ~~tuberculosis~~  
21 ~~sanatorium~~ or other place licensed or approved by the department under s. 49.70,  
22 49.71, 49.72, 50.02, 50.03, 50.35, 51.08, <sup>or</sup> 51.09, ~~or~~ <sup>or</sup> 58.06, ~~252.073 or 252.076~~ or a  
23 facility under s. 45.365, 51.05, 51.06, 233.40, 233.41, 233.42 or 252.10.

1           **SECTION 18.** 155.01 (6) of the statutes is amended to read:

2           155.01 (6) "Health care facility" means a facility, as defined in s. 647.01 (4), or  
3 any hospital, nursing home, community-based residential facility, county home,  
4 county infirmary, county hospital, county mental health center, ~~tuberculosis~~  
5 ~~sanatorium~~ or other place licensed or approved by the department under s. 49.70,  
6 49.71, 49.72, 50.02, 50.03, 50.35, 51.08, <sup>21</sup>51.09, ~~or 58.06, 252.073 or 252.076~~ or a  
7 facility under s. 45.365, 51.05, 51.06, 233.40, 233.41, 233.42 or 252.10.

8           **SECTION 19.** 252.07 (1) of the statutes is renumbered 252.07 (1m) and amended  
9 to read:

10           252.07 (1m) ~~Tuberculosis is a communicable disease caused by mycobacterium~~  
11 ~~tuberculosis and is~~ Infectious tuberculosis and suspect tuberculosis are subject to the  
12 reporting requirements specified in s. 252.05. Any laboratory that ~~performs a test~~  
13 receives a specimen for tuberculosis testing shall report all positive results obtained  
14 by any appropriate procedure, including a procedure performed by an out-of-state  
15 laboratory, to the local health officer and to the department.

16           **SECTION 20.** 252.07 (1g) of the statutes is created to read:

17           252.07 (1g) In this section:

18           (a) "Infectious tuberculosis" means tuberculosis disease of the respiratory  
19 tract, capable of producing infection or disease in others as demonstrated by the  
20 presence of acid-fast bacilli in the sputum or bronchial secretions or by chest  
21 radiograph and clinical findings.

22           (b) "Isolate" means a population of <sup>mycobacterium tuberculosis</sup> ~~bacteria or other cells~~ that has been obtained  
23 in pure culture medium by ~~separation and that is differentiated from other bacteria~~  
24 ~~or cells by the accumulation of new characteristics~~

\*\*\*\*NOTE: Is this an accurate definition of "isolate"? I have attempted to paraphrase the medical dictionary definition (the word as a noun does not appear in the standard English dictionary) and I am uncertain if I have succeeded in capturing the meaning of the word.

1 (b) "Isolation" means the separation from other persons of a person with  
2 infectious tuberculosis in a place and under conditions that prevent the transmission  
3 of the infection.

4 (c) "Suspect tuberculosis" means an illness marked by symptoms and  
5 laboratory tests that may be indicative of tuberculosis, such as a prolonged cough,  
6 prolonged fever, hemoptysis, compatible roentgenographic findings or other  
7 appropriate medical imaging findings.

8 SECTION 21. 252.07 (1p) of the statutes is created to read:

9 252.07 (1p) Any laboratory that performs primary culture for mycobacteria  
10 shall also perform organism identification for mycobacterium tuberculosis complex  
11 using an approved rapid testing procedure.

*specified by the department by rule*

\*\*\*\*NOTE: By whom must the rapid testing procedure be approved?

12 SECTION 22. 252.07 (1t) of the statutes is created to read:

13 252.07 (1t) Any laboratory that identifies mycobacterium tuberculosis shall  
14 ensure that antimicrobial drug susceptibility tests are performed on the initial  
15 isolate. The laboratory shall report the results of these tests to the local health officer  
16 and the department.

✓  
INSERT  
B-16

17 SECTION 23. 252.07 (4) of the statutes is repealed.

18 SECTION 24. 252.07 (5) of the statutes is amended to read:

19 252.07 (5) Upon report of any person under sub. (4) (1m) or (1t), the local health  
20 officer shall at once investigate and make and enforce the necessary orders. ~~If the~~ <sup>any</sup>  
21 person does not voluntarily comply the local health officer or the department may  
22 order a medical evaluation, directly observed therapy or home isolation <sup>of that</sup>  
person

*with any order made by  
the local health officer with respect to  
that person.*



\*\*\*NOTE: If which person does not voluntarily comply with what?

INSERT  
9-1

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

SECTION 25. 252.07 (7) of the statutes is repealed.

SECTION 26. 252.073 of the statutes is repealed.

SECTION 27. 252.076 of the statutes is repealed.

SECTION 28. 252.08 of the statutes is repealed.

SECTION 29. 252.09 of the statutes is repealed.

SECTION 30. 252.10 (1) of the statutes is amended to read:

252.10 (1) ~~Counties with populations of more than 25,000 may establish and maintain public health dispensaries and, where necessary, branches of the dispensaries~~ A local health department may request from the department of health and family services certification to establish and maintain a public health dispensary for the diagnosis and treatment of persons suffering from or suspected of having mycobacterium tuberculosis or other pulmonary diseases. Two or more counties local health departments may jointly establish, operate and maintain public health dispensaries in order to serve a total population of not less than 25,000. Counties. The department of health and family services shall certify a local health department to establish and maintain a public health dispensary if the local health department meets the standards established by the department of health and family services by rule. The department of health and family services may withhold, suspend or revoke a certification if the local health department fails to comply with any rules ~~and standards~~ promulgated by the department. The department of health and family services shall provide the local health department with reasonable notice of the decision to withhold, suspend or revoke certification. The department of health and family services shall offer the local health department an opportunity to comply with the rules ~~and standards~~ and an opportunity for a fair hearing. Local health

certified

SECTION 40

*If a local health department contracts for public health dispensary services, the local health dept. shall ensure that the provider of those services complies with the rules promulgated under this*

1 ~~departments may contract with each other for public health dispensary services. The~~  
 2 ~~department and department of revenue shall be notified of the establishment of~~  
 3 ~~public health dispensaries and any contracts pertaining to the dispensaries. The~~  
 4 department may establish, operate and maintain public health dispensaries and  
 5 branches in areas of the state where local authorities have not provided public health  
 6 dispensaries.

*If the provider of those services fails to comply, the department of health and family services may suspend or revoke the local health department's certification.*

\*\*\*NOTE: Must DHFS offer the opportunity to comply and the opportunity for a fair hearing prior to revocation or suspension?

7 SECTION 31. 252.10 (3) of the statutes is repealed.

8 SECTION 32. 252.10 (5) of the statutes is repealed.

9 SECTION 33. 252.10 (6) (a) of the statutes is amended to read:

10 252.10 (6) (a) The state shall credit or reimburse each dispensary on an annual  
 11 or quarterly basis for the operation of public health dispensaries established and  
 12 maintained in accordance with this section and rules promulgated by the  
 13 department.

14 SECTION 34. 252.10 (6) (b) of the statutes is amended to read:

15 252.10 (6) (b) The state department shall determine by rule the reimbursement  
 16 for each visit rate under par. (a) for services as ordered by a physician shall be \$6 or  
 17 a greater amount prescribed in rules promulgated by the department. If an X-ray  
 18 is taken, an additional \$6 or any greater amount prescribed in rules promulgated by  
 19 the department will be credited. Any X-ray taken outside a facility under this  
 20 section or outside a facility approved under s. 252.08 on individuals who have a  
 21 significant reaction to a test for mycobacterium tuberculosis shall qualify for state  
 22 aid in the same manner as an X-ray taken inside a facility, and the X-ray shall take  
 23 the place of the first X-ray eligible for reimbursement as part of a case finding and

1 ~~preventive program under par. (e). The administration and reading of the test for~~  
2 ~~mycobacterium tuberculosis for diagnostic purposes shall be considered one visit.~~  
3 ~~Tests for mycobacterium tuberculosis given in school programs, employment health~~  
4 ~~programs, community preventive and case finding programs are not reimbursable~~  
5 ~~as a clinic visit.~~

6 **SECTION 35.** 252.10 (6) (c) of the statutes is repealed.

7 **SECTION 36.** 252.10 (6) (d) of the statutes is repealed.

8 **SECTION 37.** 252.10 (6) (e) of the statutes is repealed.

9 **SECTION 38.** 252.10 (6) (f) of the statutes is repealed.

10 **SECTION 39.** 252.10 (6) (g) of the statutes is amended to read:

11 252.10 (6) (g) The reimbursement by the state under pars. (a) ~~to (f)~~ and (b) shall  
12 apply only to funds that the department allocates for the reimbursement under the  
13 appropriation under s. 20.435 (5) (e).

14 **SECTION 40.** 252.10 (7) of the statutes, as affected by 1997 Wisconsin Act 156,  
15 is amended to read:

16 252.10 (7) Drugs necessary for the treatment of mycobacterium tuberculosis  
17 shall be purchased by the department from the appropriation under s. 20.435 (5) (e)  
18 and dispensed to patients through the public health dispensaries ~~or through health~~  
19 ~~care providers, as defined in s. 146.81 (1), other than massage therapists or~~  
20 ~~bodyworkers issued a license of registration under subch. X of ch. 440, social workers,~~  
21 ~~marriage and family therapists or professional counselors certified under ch. 457,~~  
22 ~~speech language pathologists or audiologists licensed under subch. II of ch. 459,~~  
23 ~~speech and language pathologists licensed by the department of public instruction~~  
24 ~~or dietitians certified under subch. V of ch. 448, local health departments, physicians~~  
25 or advanced practice nurse prescribers.

1           **SECTION 41.** 252.10 (9) of the statutes is amended to read:

2           252.10 (9) Public health dispensaries shall maintain such records as are  
3 required by the department to enable them to carry out their responsibilities  
4 designated in this section and in rules promulgated by the department. Records  
5 shall be submitted annually to the department as soon as possible after the close of  
6 each fiscal year and not later than August 15 following.

7           **SECTION 42.** 252.14 (1) (d) of the statutes is amended to read:

8           252.14 (1) (d) “Inpatient health care facility” means a hospital, nursing home,  
9 community-based residential facility, county home, county mental health complex,  
10 ~~tuberculosis sanatorium~~ or other place licensed or approved by the department  
11 under ~~ss. s.~~ 49.70, 49.71, 49.72, 50.02, 50.03, 50.35, 51.08, <sup>or</sup> 51.09, ~~or~~ <sup>✓</sup> 58.06, ~~252.073~~  
12 ~~and 252.076~~ or a facility under s. 45.365, 48.62, 51.05, 51.06, 233.40, 233.41, 233.42  
13 or 252.10.

14           **SECTION 43.** 255.05 (1) (a) of the statutes is amended to read:

15           255.05 (1) (a) “Institution” means any hospital, nursing home, county home,  
16 county mental hospital, ~~tuberculosis sanatorium~~, community-based residential  
17 facility or other place licensed or approved by the department under ~~ss. s.~~ 49.70,  
18 49.71, 49.72, 50.02, 50.03, 50.35, 51.08, <sup>or</sup> 51.09, ~~or~~ <sup>✓</sup> 58.06, ~~252.073~~ and ~~252.076~~.

19           **SECTION 44.** 610.70 (1) (e) of the statutes, as created by 1997 Wisconsin Act 231,  
20 is amended to read:

21           610.70 (1) (e) “Medical care institution” means a facility, as defined in s. 647.01  
22 (4), or any hospital, nursing home, community-based residential facility, county  
23 home, county infirmary, county hospital, county mental health center, ~~tuberculosis~~  
24 ~~sanatorium~~, adult family home, assisted living facility, rural medical center, hospice  
25 or other place licensed, certified or approved by the department of health and family

1 services under s. 49.70, 49.71, 49.72, 50.02, 50.03, 50.032, 50.033, 50.034, 50.35,  
2 50.52, 50.90, 51.04, 51.08, <sup>or</sup> 51.09, ~~or 58.06, 252.073 or 252.076~~ or a facility under s.  
3 45.365, 51.05, 51.06 or 252.10 or under ch. 233 or licensed or certified by a county  
4 department under s. 50.032 or 50.033.

5 **SECTION 9423. Effective dates; health and family services.**

6 (1) TUBERCULOSIS. The treatment of sections 252.10 (7) and 610.70 (1) (e) of the  
7 statutes take effect on June 1, 1999, or on the day after publication, whichever is  
8 later.

9

(END)

D-NOTE



INSERT 1-5

Section #. 46.10 (2m)<sup>X</sup> of the statutes is amended to read:

46.10 (2m) The liability specified in sub. (2) shall not apply to tuberculosis patients receiving care, maintenance, services and supplies under ss. ~~58.06 and~~ 252.07 to 252.10, to persons 18 and older receiving care, maintenance, services and supplies provided by prisons named in s. 302.01 or to parents of a minor who receives care for alcohol or drug abuse under s. 51.47 (1) without consent of the minor's parent or guardian.

History: 1971 c. 125; 1971 c. 213 s. 5; 1973 c. 90 ss. 223, 223m, 560 (3); 1973 c. 198, 333; 1975 c. 39 ss. 347 to 350, 734; 1975 c. 41, 94; 1975 c. 189 s. 99 (2); 1975 c. 198, 199, 224; 1975 c. 413 s. 18; 1975 c. 428; 1975 c. 430 ss. 6, 80; 1977 c. 29, 203; 1977 c. 418 ss. 294 to 295, 924 (50), 929 (18); 1977 c. 428; 1977 c. 447 s. 206; 1977 c. 449 ss. 75, 497; 1979 c. 34; 1979 c. 102 ss. 236 (4), 237; 1979 c. 117, 221, 331; 1981 c. 20 ss. 755 to 758, 2202 (20) (i), (n); 1981 c. 81; 1983 a. 27 ss. 955m, 2202 (20); 1985 a. 29, 176, 281, 332; 1987 a. 307; 1989 a. 31, 56, 96, 212; 1991 a. 39, 221, 315, 316; 1993 a. 16, 27, 385, 437, 446, 479, 481; 1995 a. 27 ss. 2054, 2055, 9130 (4); 1995 a. 77, 224, 404; 1997 a. 3, 27, 35, 237, 308.

(8-16)

Section #. 252.07 (2) <sup>X</sup> of the statutes is amended to read:

252.07 (2) The department shall identify groups at risk for contracting or transmitting mycobacterium tuberculosis and shall recommend the protocol for screening members of those groups. <sup>✓</sup> ~~If necessary to prevent or control the transmission of mycobacterium tuberculosis, the department may promulgate rules that require screening of members of specific groups that are at risk for contracting or transmitting mycobacterium tuberculosis.~~

History: 1971 c. 158; 1975 c. 383 s. 4; 1975 c. 421; 1981 c. 291; 1993 a. 27 s. 296, 472; Stats. 1993 s. 252.07; 1993 a. 490.

**1999-2000 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0183/P2ins  
TAY.....

**Insert 9-1**

**SECTION 1.** 252.07 (8)<sup>x</sup> of the statutes is created to read:

252.07 (8) (a) The department or a local health officer may order the confinement to a facility of an individual who has a confirmed diagnosis of infectious tuberculosis or suspect tuberculosis if all of the following conditions are met:

1. The department or local health officer notifies a court in writing of the confinement.

2. The department or local health officer provides to the court a written statement from a physician that the individual has infectious tuberculosis or suspect tuberculosis.

3. The department or local health officer provides to the court evidence that the individual has refused to follow a prescribed treatment regimen or, in the case of an individual with suspect tuberculosis, has refused to undergo a medical examination to confirm whether the individual has infectious tuberculosis.

4. In the case of an individual with a confirmed diagnosis of infectious tuberculosis, the department or local health officer determines that the individual poses an imminent and substantial threat to himself or herself or to the public health. The department or local health officer shall provide to the court a written statement of that determination.

(b) If the department or local health officer orders the confinement of an individual under this subsection, a law enforcement officer or other authorized person shall transport the individual, if necessary, to a facility that the department



or local health officer determines will meet the individual's need for medical evaluation, isolation and treatment.

(c) No individual may be confined under this subsection for more than <sup>✓</sup>72 hours, excluding Saturdays, Sundays and legal holidays, without a court hearing under sub. (9)<sup>✓</sup> to determine whether the confinement should continue.

**SECTION 2.** 252.07 (9)<sup>✓</sup> of the statutes is created to read:

252.07 (9) (a) The department or a local health officer may petition any court for a hearing to determine whether an individual with infectious or suspect tuberculosis should be confined for longer than 72 hours in a facility where proper care and treatment will be provided and spread of the disease will be prevented. The department or local health officer shall include in the petition documentation that demonstrates all of the following:

1. That the individual named in the petition has infectious tuberculosis; that the individual has noninfectious tuberculosis but is at high risk of developing infectious tuberculosis; or that the individual has suspect tuberculosis.

2. That the individual has failed to comply with the prescribed treatment regimen or with any rules promulgated by the department under sub. (10)<sup>✓</sup>; or that the disease is resistant to the medication prescribed to the individual.

3. That all other reasonable means of achieving voluntary compliance with treatment have been exhausted and no less restrictive alternative exists; or that no other medication to treat the resistant disease is available.

4. That the individual poses an imminent and substantial threat to himself or herself or to the public health.

(b) The department or local health officer shall give the individual written notice of a hearing at least 48<sup>✓</sup> hours before the hearing is scheduled to be held. Notice of the hearing shall include all of the following information:

1. The date, time and place of the hearing.
2. The grounds, and underlying facts, upon which confinement of the individual is being sought.
3. An explanation of the individual's rights specified under ~~s. 977.07 (1)~~ <sup>par. (d)</sup>
4. The proposed actions to be taken and the reasons for each action.

(c) If the court orders confinement of an individual under this<sup>✓</sup> subsection, the individual shall remain confined until the department or local health officer, with the concurrence of a treating physician, determines that treatment is complete or that the individual is no longer a substantial threat to himself or herself or to the public health.

(d) An individual who is the subject of a petition for a hearing under this subsection has the right to appear at the hearing, the right to present evidence and cross-examine witnesses and the right to be represented by adversary counsel. At the time of the filing of the petition the court shall assure that the individual who is the subject of the petition is represented by adversary counsel. If the individual claims or appears to be indigent, the court shall refer the individual to the authority for indigency determinations specified under s. 977.07 (1)<sup>✓</sup>. If the individual is a child, the court shall refer that child to the state public defender who shall appoint counsel for the child without a determination of indigency, as provided in s. 48.23 (4)<sup>✓</sup>.

(e) An order issued by the court under this subsection may be appealed as a matter of right. An appeal shall be heard within 30 days after the appeal is filed. An appeal does not stay the order.

**SECTION 3.** 252.07 (10)<sup>x</sup> of the statutes is created to read:

**252.07 (10) (a)** The department may reimburse an individual for inpatient care for pulmonary tuberculosis exceeding 30 days if all of the following conditions are met:

1. The individual is not eligible for federal medicare benefits, for medical assistance under subch. IV<sup>✓</sup> of ch. 49 or for health care services funded by a relief block grant under subch. II of ch. 49<sup>✓</sup>.

2. The inpatient care is provided by a facility approved by the department.

(b) If the individual under par. (a)<sup>✓</sup> has private health insurance, the department shall pay the difference between health insurance payments and total

charges.<sup>↓</sup>  
SEC #  
→ 1 CR; 252.07 (11)<sup>✓</sup>

252.07 (11)<sup>10</sup> The department may promulgate any rules necessary for the administration and enforcement of this section, including, if necessary, to prevent or control the transmission of mycobacterium tuberculosis, rules that require screening of members of specific groups that are at risk for contracting or transmitting mycobacterium tuberculosis.

(end ins)

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

99-0183/P2dn  
TAY.....

jig

Sue Jablonsky:

I have attempted to make the changes that the department has requested. However, as I have stressed many times, it is more difficult to draft a request that the department "drafts" for me than it is to draft a request that clearly and concisely states the issues or problems that the department wants to address and the concepts that would address them. We have very particular and technical rules for drafting that I do not by any means expect DHFS staff to know or follow. However, the department's drafting style (for example, the improper use of striking and scoring) makes it very difficult for me to follow what the department is trying to accomplish. In the future, I urge the department to state its intent outright rather than attempt to draft the legislation. I will have a much easier time inferring the department's intent that way and will more successfully effect its intent in the bill.

The provisions regarding confinement and hearings are in s. 252.07 (9)<sup>✓</sup> and (10)<sup>✓</sup> in this draft. Please review the provisions carefully to ensure that I captured the department's intent. Note that the department's request appears to treat a hearing after temporary confinement differently from a hearing for confinement. I did not understand why the two provisions in the department's request differed (for example, one provision required not less than 24 hours notice, the other not less than 48 hours notice; one provision specified appeal rights and documentation required to be given<sup>✓</sup> to the subject of the petition, the other did not). I drafted one provision on hearings, rather than two. You might also note that I specified the tuberculosis patient's rights with respect to the hearing, rather than referring to them obliquely in the notice requirement.

In addition, please review the dispensary provision (s. 252.10 (1)).<sup>✓</sup> The department asked why I could not simply refer to DHFS as "the department" as is otherwise done. The answer is that the provision refers to a local health department and, although "department" is defined as "the department of health and family services," use of the word is confusing. It could be difficult to determine whether the word refers to the local health department or the department of health and family services. Therefore, I left the references to the department of health and family services in that provision.

Finally, I was uncertain about the department's intent in the provision that states, "A case of infectious or suspect tuberculosis in an uninsured person shall constitute a medical emergency for the purpose of determining eligibility for general relief under

s. 49.015 (3).” Section 49.015 (3)<sup>✓</sup> allows a relief agency to waive the residency requirement for a person receiving health care services from a trauma center. Would a TB patient receive services in a trauma center? Why is that provision included?

Tina A. Yacker  
Legislative Attorney  
261-6927

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

99-0183/P2dn  
TAY:jlg:hmh

Friday, December 11, 1998

Sue Jablonsky:

I have attempted to make the changes that the department has requested. However, as I have stressed many times, it is more difficult to draft a request that the department "drafts" for me than it is to draft a request that clearly and concisely states the issues or problems that the department wants to address and the concepts that would address them. We have very particular and technical rules for drafting that I do not by any means expect DHFS staff to know or follow. However, the department's drafting style (for example, the improper use of striking and scoring) makes it very difficult for me to follow what the department is trying to accomplish. In the future, I urge the department to state its intent outright rather than attempt to draft the legislation. I will have a much easier time inferring the department's intent that way and will more successfully effect its intent in the bill.

The provisions regarding confinement and hearings are in s. 252.07 (9) and (10) in this draft. Please review the provisions carefully to ensure that I captured the department's intent. Note that the department's request appears to treat a hearing after temporary confinement differently from a hearing for confinement. I did not understand why the two provisions in the department's request differed (for example, one provision required not less than 24 hours notice, the other not less than 48 hours notice; one provision specified appeal rights and documentation required to be given to the subject of the petition, the other did not). I drafted one provision on hearings, rather than two. You might also note that I specified the tuberculosis patient's rights with respect to the hearing, rather than referring to them obliquely in the notice requirement.

In addition, please review the dispensary provision (s. 252.10 (1)). The department asked why I could not simply refer to DHFS as "the department" as is otherwise done. The answer is that the provision refers to a local health department and, although "department" is defined as "the department of health and family services," use of the word is confusing. It could be difficult to determine whether the word refers to the local health department or the department of health and family services. Therefore, I left the references to the department of health and family services in that provision.

Finally, I was uncertain about the department's intent in the provision that states, "A case of infectious or suspect tuberculosis in an uninsured person shall constitute a medical emergency for the purpose of determining eligibility for general relief under

s. 49.015 (3).” Section 49.015 (3) allows a relief agency to waive the residency requirement for a person receiving health care services from a trauma center. Would a TB patient receive services in a trauma center? Why is that provision included?

Tina A. Yacker  
Legislative Attorney  
261-6927

## Yacker, Tina

---

**From:** Jablonsky, Sue [sue.jablonsky@doa.state.wi.us]  
**Sent:** Wednesday, January 20, 1999 5:14 PM  
**To:** Yacker, Tina  
**Subject:** FW: LRB 0183



Memo to LRB - TB language.doc

> -----Original Message-----  
> From: Hadidan, Ellen  
> Sent: Tuesday, January 19, 1999 2:03 PM  
> To: Jablonsky, Sue  
> Subject: LRB 0183  
>  
> Attached are comments from the Department's program staff and OLC  
> concerning  
> this draft, which relates to tuberculosis treatment. We appreciate the  
> effort  
> which the drafter has made to incorporate all our suggested revisions.  
> Could  
> you forward the attached comments to the drafter so that she can finish  
> working  
> on this piece of legislation? Thanks.  
> <<Memo to LRB - TB language.doc>>



Comments on LRB 0183

Thank you for your careful reading of the Department's draft and the subsequent LRB draft of the proposed revised TB statutes. This draft has been reviewed by both program people and the Office of Legal Counsel, and their comments are given below.

✓ In referring to s. 49.015(3) we apparently intended to reference an obsolete provision. Our intention is to waive residency requirements for an uninsured person with infectious or suspect tuberculosis for the purpose of determining eligibility for general relief. In other words, we want to make sure a person with TB that may pose a public health threat will receive services, with insurance, Medicaid, general relief being the first source of payment.

✓ page 5, line 17--in the text of statute 102.42(6) there is a reference to "sanatorium" that needs to be deleted, in keeping with the deletions of "sanatorium" elsewhere in the draft.

✓ Page 10--line 10 252.07 (9) 4. (b) change to the following language:  
"notice of a hearing at least 48 hours before the scheduled hearing is to be held."

✓ Page 10--line 18 252.07 (9) 4. (c) change to the word "remained" to "remain"

✓ Page 10--line 23 252.07 (9) 4. (d) we want to add language that specifies "a person has the right to appear at the hearing", but this appearance must be in a manner that does not transmit disease. We want to make sure the person is not infecting the judge and attorneys, after all.

✓ Page 11--lines 10-19 252.07 (10) This section is the renumbering of former section 252.08(3) and should reflect the current language (changed during the 1995-96 legislative session) which is as follows:

"Inpatient care for isolated pulmonary tuberculosis patients, and inpatient care exceeding 30 days for other pulmonary tuberculosis patients, who are not eligible for federal Medicare benefits, for medical assistance under subch. V of ch. 49 or for health care services funded by a relief block grant under subch. II of ch. 49 may be reimbursed if provided by a facility contracted by the department. If the patient has private health insurance, the state shall pay the difference between the health insurance payments and total charges."

✓ pages 12 and 13--in the text of statute 252.10(1), we continue to recommend that the lengthy references to "department of health and family services" be replaced with a reference to "department". It does not seem that a simple reference to "department", if used, would generate confusion. This is not a situation where the language refers to more than one state agency, so there is no need to distinguish DHFS from some other state "department". It is clear from the substance of the language that the local health

D-  
NOTE

department is requesting certification from some entity that is not the local health department, and "department" is already defined elsewhere to be the DHFS. If a reader were to assume "department" means the local health department, it would require the reader to interpret the statute as calling for the local health department to request itself to certify itself, and to then subsequently suspend or revoke the certification it issued to itself. That would be illogical. The only logical interpretation of "department" would be that it refers to the Department of Health and Family Services, just as is defined in statute, and just as we want it to be interpreted. In contrast, if the longer title of DHFS is used, it creates highly cumbersome language, and such language would be inconsistent with the drafting style of existing health statutes. See ss. 251.04(1) and (3), 251.05(3)(d), and 254.152 for some examples of existing statutes that refer to DHFS as the "department" in the same provisions that also refer to the local health department.

9. Page 15--line 1 and 2 Section 252.10 (9)

Change the last sentence to :

"Records may be audited by the department of health and family services."

### **Comments about confinement/hearing provisions**

First, a clarification of what lies behind the proposals for statutes on confinement and hearings. The old communicable disease statutes arose eons ago when there was little concern about due process. That used to be the case also with regard to involuntary treatment of the mentally ill. However, numerous court rulings in Wisconsin and elsewhere with regard to mental illness have made it clear that the mentally ill have constitutional rights to due process, and statutes concerning mental illness commitments were therefore created to spell out a process that addressed those concerns. In recent years, some courts in other states have issued rulings declaring that TB patients have analogous constitutional rights. Thus far, there has been no such court decision in Wisconsin. However, if the Wisconsin TB statutes are going to be modernized anyway, it makes sense to develop a statutory process that would address due process concerns.

The statutory system in Wisconsin for involuntary mental illness commitments is in s. 51.20. That statute describes the authority to detain a person on an emergency basis, and then follows that up with a 2-stage hearing process. First there is a hurried-up hearing to establish the existence of probable cause to continue holding the person, and then there is a more final hearing held on a more leisurely basis. From the court rulings we have seen on TB, however, there is nothing magic in the number of hearings--it is the rights granted in the hearing process that matter. Accordingly, we don't object to the notion of one hearing rather than two if the deadlines involved are something that are medically feasible. A system for dealing with TB does not have to be as elaborate as that for mental illness, because the existence of mental illness and the level of dangerousness involved is a very subjective situation as opposed to the relative medical certainty of a TB diagnosis. However, some more clarification of terms

and issues would be helpful.

1. "Facility". Starting on page 8, line 17 and throughout the remaining provisions dealing with confinement and hearings, the language talks about confining the patient in a "facility". The Department would like to have a definition of "facility" which could include something other than a health care facility. For example, if the person is incarcerated the facility would be a jail, which would be treating the person for TB.

D-Note  
2. Notice to court. The system described starting on page 8, line 19, requires that the process begin with notice to a court that a person has been confined. This appears to apply to confinements of individuals for less than 72 hours. What is the purpose of that notice to the court if the individual is going to be released in, say, 48 hours? What does the court do in response? The Department must petition the court to hold someone for longer than 72 hours, but is a court notification necessary here where no action is required of the court?

3. "Authorized person". Page 9, line 9 refers to transport by an authorized person. This should be changed to indicate that the local public health officer has the authority to authorize this person (to answer the question, "authorized by whom?").

4. Any need for periodic review of longterm confinement? If a person is confined pursuant to a court order, and the doctors believe the person continues to fall within the criteria eligible for continued confinement, is there any time limit to the confinement, or should there be a periodic court review? The Department's thought is that these confinements should receive regular reviews, perhaps every six months.

5. Location of hearing Could we build into the hearing process a possibility of holding the hearing at the treatment location, to address the concerns raised by program staff about the need to protect from spread of the infection.

(soon) D-NOTE

1999 - 2000 LEGISLATURE

LRB-0183/P2  
TAY:jlg:hmh

RMR

DOA:.....Jablonsky - TB/communicable diseases

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

do not gen

1 AN ACT ...; relating to: tuberculosis and other communicable diseases.

*Analysis by the Legislative Reference Bureau*

**HEALTH AND HUMAN SERVICES**

**HEALTH**

✓ INS Analysis

↳ This is a preliminary draft. An analysis will be provided in a later version.

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

2 SECTION 1. 20.435 (5) (e) of the statutes is amended to read:

3 20.435 (5) (e) *Disease aids.* Biennially, the amounts in the schedule for  
4 assisting victims of diseases, as provided in ss. 49.68, 49.683, 49.685, ~~58.06, 252.08~~  
5 ~~(4) and (5)~~ and 252.10 (6) and (7), as allocated by the department.

6 SECTION 2. 46.10 (2m) of the statutes is amended to read:

7 46.10 (2m) The liability specified in sub. (2) shall not apply to tuberculosis  
8 patients receiving care, maintenance, services and supplies under ss. ~~58.06 and~~

1 252.07 to 252.10, to persons 18 and older receiving care, maintenance, services and  
2 supplies provided by prisons named in s. 302.01 or to parents of a minor who receives  
3 care for alcohol or drug abuse under s. 51.47 (1) without consent of the minor's parent  
4 or guardian.

5 **SECTION 3.** 46.18 (1) of the statutes is amended to read:

6 46.18 (1) **TRUSTEES.** Every county home, infirmary, hospital, tuberculosis  
7 ~~hospital or sanatorium~~, or similar institution, shall, subject to regulations approved  
8 by the county board, be managed by a board of trustees, electors of the county, chosen  
9 by ballot by the county board. At its annual meeting, the county board shall appoint  
10 an uneven number of trustees, from 3 to 9 at the option of the board, for staggered  
11 3-year terms ending the first Monday in January. Any vacancy shall be filled for the  
12 unexpired term by the county board; but the chairperson of the county board may  
13 appoint a trustee to fill the vacancy until the county board acts.

14 **SECTION 4.** 46.20 (1) of the statutes is amended to read:

15 46.20 (1) Any 2 or more counties may jointly, by majority vote of all the  
16 members of each county board, provide for a county home, infirmary, hospital,  
17 ~~tuberculosis hospital or sanatorium~~, or similar institution, or juvenile detention  
18 home, which shall be established, maintained and operated pursuant to all the  
19 statutes relating to the establishment, maintenance and operation of similar  
20 institutions, respectively, by any single county whose population is less than  
21 250,000, except as otherwise provided in this section; and in all respects, except as  
22 herein specified, each such institution shall be the county institution of each of the  
23 counties so joining.

24 **SECTION 5.** 46.20 (3) of the statutes is amended to read:

1           46.20 (3) Upon approval of the site, plans and specifications, as provided in s.  
2           ~~252.073 as to tuberculosis sanatoriums~~ and ss. 46.17 and 301.37, as to other  
3           institutions, the joint committee shall report to the several county boards the  
4           estimated cost of the site and buildings, and the amount thereof chargeable to each  
5           county on the basis set forth in sub. (6) (a), appending to each report a copy of the  
6           plans and specifications and all matter relating to the site and buildings. If the report  
7           is approved by each county board, the joint committee shall purchase the site and  
8           cause the buildings to be erected in accordance with the plans and specifications.

9           **SECTION 6.** 46.20 (8) of the statutes is repealed.

10          **SECTION 7.** 46.20 (10) of the statutes is repealed.

11          **SECTION 8.** 48.60 (2) (d) of the statutes is amended to read:

12          48.60 (2) (d) A hospital, maternity hospital, maternity home, or nursing home  
13          ~~or tuberculosis sanatorium~~ licensed, approved or supervised by the department;

14          **SECTION 9.** 49.08 of the statutes is amended to read:

15          **49.08 Recovery of relief and other assistance.** If any person is the owner  
16          of property at the time of receiving general relief under ch. 49, 1993 stats., relief  
17          funded by a relief block grant or other assistance as an inmate of any county or  
18          municipal institution in which the state is not chargeable with all or a part of the  
19          inmate's maintenance or as a tuberculosis patient provided for in ss. ~~58.06 and~~  
20          252.07 to 252.10, or at any time thereafter, or if the person becomes self-supporting,  
21          the authorities charged with the care of the dependent, or the board in charge of the  
22          institution, may sue for the value of the relief or other assistance from the person or  
23          the person's estate. Except as otherwise provided in this section, the 10-year statute  
24          of limitations may be pleaded in defense in an action to recover relief or other  
25          assistance. Where the recipient of relief or other assistance is deceased, a claim may

✓  
INSERT 3-13 →

1 be filed against the decedent's estate and the statute of limitations specified in s.  
2 859.02 shall be exclusively applicable. The court may refuse to render judgment or  
3 allow the claim in any case where a parent, spouse, surviving spouse or child is  
4 dependent on the property for support. The court in rendering judgment shall take  
5 into account the current family budget requirement as fixed by the U.S. department  
6 of labor for the community or as fixed by the authorities of the community in charge  
7 of public assistance. The records kept by the municipality, county or institution are  
8 prima facie evidence of the value of the relief or other assistance furnished. ~~This~~  
9 ~~section shall not apply to any person who receives care for pulmonary tuberculosis~~  
10 ~~as provided in s. 252.08 (4).~~

11 **SECTION 10.** 50.135 (1) of the statutes is amended to read:

12 50.135 (1) DEFINITION. In this section, "inpatient health care facility" means  
13 any hospital, nursing home, county home, county mental hospital, ~~tuberculosis~~  
14 ~~sanatorium~~ or other place licensed or approved by the department under ss. 49.70,  
15 49.71, 49.72, 50.02, 50.03, 50.35, 51.08, and 51.09, ~~58.06, 252.073 and 252.076~~, but  
16 does not include community-based residential facilities.

17 **SECTION 11.** 50.39 (2) of the statutes is amended to read:

18 50.39 (2) The use of the title "hospital" to represent or identify any facility  
19 which does not meet the definition of a "hospital" as provided herein or is not subject  
20 to approval under ss. 50.32 to 50.39 is prohibited, except that institutions governed  
21 by ss. s. 51.09 ~~and 252.073~~ are exempt.

22 **SECTION 12.** 50.39 (3) of the statutes is amended to read:

23 50.39 (3) Facilities governed by ss. 45.365, 48.62, 49.70, 49.72, 50.02, 51.09,  
24 ~~58.06, 252.073, 252.076~~ and 252.10, secured correctional facilities as defined in s.  
25 938.02 (15m), correctional institutions governed by the department of corrections

1 under s. 301.02 and the offices and clinics of persons licensed to treat the sick under  
2 chs. 446, 447 and 448 are exempt from ss. 50.32 to 50.39. Sections 50.32 to 50.39 do  
3 not abridge the rights of the medical examining board, physical therapists affiliated  
4 credentialing board, podiatrists affiliated credentialing board, dentistry examining  
5 board, pharmacy examining board, chiropractic examining board and board of  
6 nursing in carrying out their statutory duties and responsibilities.

7 **SECTION 13.** 58.06 of the statutes is repealed.

8 **SECTION 14.** 101.123 (1) (b) of the statutes is amended to read:

9 101.123 (1) (b) "Inpatient health care facility" means a county home  
10 established under s. 49.70, a county infirmary established under s. 49.72, or a  
11 community-based residential facility or a nursing home licensed under s. 50.03 ~~or~~  
12 ~~a tuberculosis sanatorium established under s. 58.06, 252.073 or 252.076.~~

13 **SECTION 15.** 102.26 (2m) of the statutes is repealed.

14 **SECTION 16.** 102.42 (6) of the statutes is amended to read:

15 102.42 (6) TREATMENT REJECTED BY EMPLOYEE. Unless the employe shall have  
16 elected Christian Science treatment in lieu of medical, surgical, dental, <sup>or</sup> hospital ~~or~~  
17 ~~sanatorium~~ treatment, no compensation shall be payable for the death or disability  
18 of an employe, if the death be caused, or insofar as the disability may be aggravated,  
19 caused or continued by an unreasonable refusal or neglect to submit to or follow any  
20 competent and reasonable medical, surgical or dental treatment or, in the case of  
21 tuberculosis, by refusal or neglect to submit to or follow hospital ~~or sanatorium~~ or  
22 medical treatment when found by the department to be necessary. The right to  
23 compensation accruing during a period of refusal or neglect to submit to or follow  
24 hospital ~~or sanatorium~~ or medical treatment when found by the department to be



1 necessary in the case of tuberculosis shall be barred, irrespective of whether  
2 disability was aggravated, caused or continued thereby.

3 **SECTION 17.** 146.819 (4) (e) of the statutes is repealed.

4 **SECTION 18.** 150.84 (2) of the statutes is amended to read:

5 150.84 (2) "Health care facility" means a facility, as defined in s. 647.01 (4), or  
6 any hospital, nursing home, community-based residential facility, county home,  
7 county infirmary, county hospital, county mental health center, ~~tuberculosis~~  
8 ~~sanatorium~~ or other place licensed or approved by the department under s. 49.70,  
9 49.71, 49.72, 50.02, 50.03, 50.35, 51.08, or 51.09, ~~58.06, 252.073 or 252.076~~ or a  
10 facility under s. 45.365, 51.05, 51.06, 233.40, 233.41, 233.42 or 252.10.

11 **SECTION 19.** 155.01 (6) of the statutes is amended to read:

12 155.01 (6) "Health care facility" means a facility, as defined in s. 647.01 (4), or  
13 any hospital, nursing home, community-based residential facility, county home,  
14 county infirmary, county hospital, county mental health center, ~~tuberculosis~~  
15 ~~sanatorium~~ or other place licensed or approved by the department under s. 49.70,  
16 49.71, 49.72, 50.02, 50.03, 50.35, 51.08, or 51.09, ~~58.06, 252.073 or 252.076~~ or a  
17 facility under s. 45.365, 51.05, 51.06, 233.40, 233.41, 233.42 or 252.10.

18 **SECTION 20.** 252.07 (1) of the statutes is renumbered 252.07 (1m) and amended  
19 to read:

20 252.07 (1m) ~~Tuberculosis is a communicable disease caused by mycobacterium~~  
21 ~~tuberculosis and is~~ Infectious tuberculosis and suspect tuberculosis are subject to the  
22 reporting requirements specified in s. 252.05. Any laboratory that ~~performs a test~~  
23 receives a specimen for tuberculosis testing shall report all positive results obtained  
24 by any appropriate procedure, including a procedure performed by an out-of-state  
25 laboratory, to the local health officer and to the department.

1           **SECTION 21.** 252.07 (1g) of the statutes is created to read:

2           252.07 (1g) In this section:

3           (a) “Infectious tuberculosis” means tuberculosis disease of the respiratory  
4 tract, capable of producing infection or disease in others as demonstrated by the  
5 presence of acid-fast bacilli in the sputum or bronchial secretions or by chest  
6 radiograph and clinical findings.

7           (b) “Isolate” means a population of mycobacterium tuberculosis bacteria that  
8 has been obtained in pure culture medium.

9           (c) “Isolation” means the separation from other persons of a person with  
10 infectious tuberculosis in a place and under conditions that prevent the transmission  
11 of the infection.

12           (d) “Suspect tuberculosis” means an illness marked by symptoms and  
13 laboratory tests that may be indicative of tuberculosis, such as a prolonged cough,  
14 prolonged fever, hemoptysis, compatible roentgenographic findings or other  
15 appropriate medical imaging findings.

16           **SECTION 22.** 252.07 (1p) of the statutes is created to read:

17           252.07 (1p) Any laboratory that performs primary culture for mycobacteria  
18 shall also perform organism identification for mycobacterium tuberculosis complex  
19 using an approved rapid testing procedure specified by the department by rule.

20           **SECTION 23.** 252.07 (1t) of the statutes is created to read:

21           252.07 (1t) Any laboratory that identifies mycobacterium tuberculosis shall  
22 ensure that antimicrobial drug susceptibility tests are performed on the initial  
23 isolate. The laboratory shall report the results of these tests to the local health officer  
24 and the department.

25           **SECTION 24.** 252.07 (2) of the statutes is amended to read:

1           252.07 (2) The department shall identify groups at risk for contracting or  
2 transmitting mycobacterium tuberculosis and shall recommend the protocol for  
3 screening members of those groups. ~~If necessary to prevent or control the~~  
4 ~~transmission of mycobacterium tuberculosis, the department may promulgate rules~~  
5 ~~that require screening of members of specific groups that are at risk for contracting~~  
6 ~~or transmitting mycobacterium tuberculosis.~~

7           **SECTION 25.** 252.07 (4) of the statutes is repealed.

8           **SECTION 26.** 252.07 (5) of the statutes is amended to read:

9           252.07 (5) Upon report of any person under sub. ~~(1)~~ (1m) or (1t), the local health  
10 officer shall at once investigate and make and enforce the necessary orders. If any  
11 person does not voluntarily comply with any order made by the local health officer  
12 with respect to that person, the local health officer or the department may order a  
13 medical evaluation, directly observed therapy or home isolation of that person.

14           **SECTION 27.** 252.07 (7) of the statutes is repealed.

15           **SECTION 28.** 252.07 (8) of the statutes is created to read:

16           252.07 (8) (a) The department or a local health officer may order the  
17 confinement to a facility of an individual who has a confirmed diagnosis of infectious  
18 tuberculosis or suspect tuberculosis if all of the following conditions are met:

19           1. The department or local health officer notifies a court in writing of the  
20 confinement.

21           2. The department or local health officer provides to the court a written  
22 statement from a physician that the individual has infectious tuberculosis or suspect  
23 tuberculosis.

24           3. The department or local health officer provides to the court evidence that the  
25 individual has refused to follow a prescribed treatment regimen or, in the case of an

1 individual with suspect tuberculosis, has refused to undergo a medical examination  
2 to confirm whether the individual has infectious tuberculosis.

3 4. In the case of an individual with a confirmed diagnosis of infectious  
4 tuberculosis, the department or local health officer determines that the individual  
5 poses an imminent and substantial threat to himself or herself or to the public  
6 health. The department or local health officer shall provide to the court a written  
7 statement of that determination.

8 (b) If the department or local health officer orders the confinement of an  
9 individual under this subsection, a law enforcement officer<sup>v</sup> or other ~~authorized~~  
10 person <sup>authorized by the local public health officer,</sup> shall transport the individual, if necessary, to a facility that the department  
11 or local health officer determines will meet the individual's need for medical  
12 evaluation, isolation and treatment.

13 (c) No individual may be confined under this subsection for more than 72 hours,  
14 excluding Saturdays, Sundays and legal holidays, without a court hearing under  
15 sub. (9) to determine whether the confinement should continue.

16 **SECTION 29.** 252.07 (9) of the statutes is created to read:

17 252.07 (9) (a) The department or a local health officer may petition any court  
18 for a hearing to determine whether an individual with infectious or suspect  
19 tuberculosis should be confined for longer than 72 hours in a facility where proper  
20 care and treatment will be provided and spread of the disease will be prevented. The  
21 department or local health officer shall include in the petition documentation that  
22 demonstrates all of the following:

23 1. That the individual named in the petition has infectious tuberculosis; that  
24 the individual has noninfectious tuberculosis but is at high risk of developing  
25 infectious tuberculosis; or that the individual has suspect tuberculosis.

1           2. That the individual has failed to comply with the prescribed treatment  
2 regimen or with any rules promulgated by the department under sub. (11); or that  
3 the disease is resistant to the medication prescribed to the individual.

4           3. That all other reasonable means of achieving voluntary compliance with  
5 treatment have been exhausted and no less restrictive alternative exists; or that no  
6 other medication to treat the resistant disease is available.

7           4. That the individual poses an imminent and substantial threat to himself or  
8 herself or to the public health.

9           (b) The department or local health officer shall give the individual written  
10 notice of a hearing at least 48 hours before <sup>a scheduled</sup> the hearing is ~~scheduled~~ to be held. Notice  
11 of the hearing shall include all of the following information:

12           1. The date, time and place of the hearing.

13           2. The grounds, and underlying facts, upon which confinement of the individual  
14 is being sought.

15           3. An explanation of the individual's rights specified under par. (d).

16           4. The proposed actions to be taken and the reasons for each action.

17           (c) If the court orders confinement of an individual under this subsection, the  
18 individual shall remain ~~at~~ confined until the department or local health officer, with  
19 the concurrence of a treating physician, determines that treatment is complete or  
20 that the individual is no longer a substantial threat to himself or herself or to the  
21 public health. *If the individual is to be confined for more than*  
*6 months, the court shall review the confinement every 6 months.*

22           (d) An individual who is the subject of a petition for a hearing under this  
23 subsection has the right to appear at the hearing, the right to present evidence and  
24 cross-examine witnesses and the right to be represented by adversary counsel. At  
25 the time of the filing of the petition the court shall assure that the individual who is

1 the subject of the petition is represented by adversary counsel. If the individual  
2 claims or appears to be indigent, the court shall refer the individual to the authority  
3 for indigency determinations specified under s. 977.07 (1). If the individual is a child,  
4 the court shall refer that child to the state public defender who shall appoint counsel  
5 for the child without a determination of indigency, as provided in s. 48.23 (4).

6 (e) An order issued by the court under this subsection may be appealed as a  
7 matter of right. An appeal shall be heard within 30 days after the appeal is filed.  
8 An appeal does not stay the order.

9 ~~SECTION 30. 252.07 (10) of the statutes is created to read:~~

10 ~~252.07 (10) (a) The department may reimburse an individual for inpatient care~~  
11 ~~for pulmonary tuberculosis exceeding 30 days if all of the following conditions are~~  
12 ~~met:~~


13 ~~1. The individual is not eligible for federal medicare benefits, for medical~~  
14 ~~assistance under subch. IV of ch. 49 or for health care services funded by a relief block~~  
15 ~~grant under subch. II of ch. 49.~~

16 ~~2. The inpatient care is provided by a facility approved by the department.~~

17 ~~(b) If the individual under par. (a) has private health insurance, the~~  
18 ~~department shall pay the difference between health insurance payments and total~~  
19 ~~charges.~~

20 SECTION 31. 252.07 (11) of the statutes is created to read:

21 252.07 (11) The department may promulgate any rules necessary for the  
22 administration and enforcement of this section, including, if necessary to prevent or  
23 control the transmission of mycobacterium tuberculosis, rules that require screening  
24 of members of specific groups that are at risk for contracting or transmitting  
25 mycobacterium tuberculosis.

 *Unless good cause is shown, a hearing under this <sup>✓</sup> subsection may be conducted by telephone or live audiovisual means, if available.*

1 SECTION 32. 252.073 of the statutes is repealed.

2 SECTION 33. 252.076 of the statutes is repealed.

3 SECTION 34. 252.08<sup>(1)</sup> of the statutes is repealed.

4 SECTION 35. 252.09 of the statutes is repealed.

5 SECTION 36. 252.10 (1) of the statutes is amended to read:

6 252.10 (1) ~~Counties with populations of more than 25,000 may establish and~~  
7 ~~maintain public health dispensaries and, where necessary, branches of the~~  
8 ~~dispensaries~~ A local health department may request from the department of health  
9 ~~and family services~~ certification to establish and maintain a public health  
10 dispensary for the diagnosis and treatment of persons suffering from or suspected  
11 of having mycobacterium tuberculosis or other pulmonary diseases. Two or more  
12 counties local health departments may jointly establish, operate and maintain  
13 public health dispensaries in order to serve a total population of not less than 25,000.  
14 Counties. The department of health and family services shall certify a local health  
15 department to establish and maintain a public health dispensary if the local health  
16 department meets the standards established by the department of health and family  
17 services by rule. The department of health and family services may withhold,  
18 suspend or revoke a certification if the local health department fails to comply with  
19 any rules promulgated by the department. The department of health and family  
20 services shall provide the local health department with reasonable notice of the  
21 decision to withhold, suspend or revoke certification. The department of health and  
22 family services shall offer the local health department an opportunity to comply with  
23 the rules and an opportunity for a fair hearing. Certified local health departments  
24 may contract with each other for public health dispensary services. The department  
25 and department of revenue shall be notified of the establishment of public health

SECTION #. RP; 252.08(2)  
SECTION #. RA; 252.08(3); 252.07(10) [INSERT 12-3 16-4]  
SECTION #. RP; 252.08(4)  
SECTION #. RP; 252.08(5)  
SECTION #. RO; 252.08(10)

1 ~~dispensaries and any contracts pertaining to the dispensaries. If the provider of~~  
2 ~~those services fails to comply, the department of health and family services may~~  
3 ~~suspend or revoke the local health department's certification.~~ The department may  
4 establish, operate and maintain public health dispensaries and branches in areas of  
5 the state where local authorities have not provided public health dispensaries.

6 SECTION 37. 252.10 (3) of the statutes is repealed.

7 SECTION 38. 252.10 (5) of the statutes is repealed.

8 SECTION 39. 252.10 (6) (a) of the statutes is amended to read:

9 252.10 (6) (a) The state shall credit or reimburse each dispensary on an annual  
10 or quarterly basis for the operation of public health dispensaries established and  
11 maintained in accordance with this section and rules promulgated by the  
12 department.

13 SECTION 40. 252.10 (6) (b) of the statutes is amended to read:

14 252.10 (6) (b) The state department shall determine by rule the reimbursement  
15 for each visit rate under par. (a) for services as ordered by a physician shall be \$6 or  
16 a greater amount prescribed in rules promulgated by the department. If an X-ray  
17 is taken, an additional \$6 or any greater amount prescribed in rules promulgated by  
18 the department will be credited. Any X-ray taken outside a facility under this  
19 section or outside a facility approved under s. 252.08 on individuals who have a  
20 significant reaction to a test for mycobacterium tuberculosis shall qualify for state  
21 aid in the same manner as an X-ray taken inside a facility, and the X-ray shall take  
22 the place of the first X-ray eligible for reimbursement as part of a case finding and  
23 preventive program under par. (c). The administration and reading of the test for  
24 mycobacterium tuberculosis for diagnostic purposes shall be considered one visit.  
25 Tests for mycobacterium tuberculosis given in school programs, employment health



1 ~~programs, community preventive and case finding programs are not reimbursable~~  
2 ~~as a clinic visit.~~

3 **SECTION 41.** 252.10 (6) (c) of the statutes is repealed.

4 **SECTION 42.** 252.10 (6) (d) of the statutes is repealed.

5 **SECTION 43.** 252.10 (6) (e) of the statutes is repealed.

6 **SECTION 44.** 252.10 (6) (f) of the statutes is repealed.

7 **SECTION 45.** 252.10 (6) (g) of the statutes is amended to read:

8 252.10 (6) (g) The reimbursement by the state under pars. (a) ~~to (f)~~ and (b) shall  
9 apply only to funds that the department allocates for the reimbursement under the  
10 appropriation under s. 20.435 (5) (e).

11 **SECTION 46.** 252.10 (7) of the statutes, as affected by 1997 Wisconsin Act 156,  
12 is amended to read:

13 252.10 (7) Drugs necessary for the treatment of mycobacterium tuberculosis  
14 shall be purchased by the department from the appropriation under s. 20.435 (5) (e)  
15 and dispensed to patients through the public health dispensaries ~~or through health~~  
16 ~~care providers, as defined in s. 146.81 (1), other than massage therapists or~~  
17 ~~bodyworkers issued a license of registration under subch. X of ch. 440, social workers,~~  
18 ~~marriage and family therapists or professional counselors certified under ch. 457,~~  
19 ~~speech language pathologists or audiologists licensed under subch. II of ch. 459,~~  
20 ~~speech and language pathologists licensed by the department of public instruction~~  
21 ~~or dietitians certified under subch. V of ch. 448, local health departments, physicians~~  
22 or advanced practice nurse prescribers.

23 **SECTION 47.** 252.10 (9) of the statutes is amended to read:

24 252.10 (9) Public health dispensaries shall maintain such records as are  
25 required by the department to enable them to carry out their responsibilities

1 designated in this section/and in rules promulgated by the department. Records  
2 ~~shall be submitted annually to the department as soon as possible after the close of~~ ✓  
3 ~~each fiscal year and not later than August 15 following.~~ *may be audited by the*  
*department*

4 **SECTION 48.** 252.14 (1) (d) of the statutes is amended to read:

5 252.14 (1) (d) "Inpatient health care facility" means a hospital, nursing home,  
6 community-based residential facility, county home, county mental health complex,  
7 ~~tuberculosis sanatorium~~ or other place licensed or approved by the department  
8 under ~~ss. s.~~ s. 49.70, 49.71, 49.72, 50.02, 50.03, 50.35, 51.08, or 51.09, ~~58.06, 252.073~~  
9 ~~and 252.076~~ or a facility under s. 45.365, 48.62, 51.05, 51.06, 233.40, 233.41, 233.42  
10 or 252.10.

11 **SECTION 49.** 255.05 (1) (a) of the statutes is amended to read:

12 255.05 (1) (a) "Institution" means any hospital, nursing home, county home,  
13 county mental hospital, ~~tuberculosis sanatorium~~, community-based residential  
14 facility or other place licensed or approved by the department under ~~ss. s.~~ s. 49.70,  
15 49.71, 49.72, 50.02, 50.03, 50.35, 51.08, or 51.09, ~~58.06, 252.073~~ and ~~252.076~~.

16 **SECTION 50.** 610.70 (1) (e) of the statutes, as created by 1997 Wisconsin Act 231,  
17 is amended to read:

18 610.70 (1) (e) "Medical care institution" means a facility, as defined in s. 647.01  
19 (4), or any hospital, nursing home, community-based residential facility, county  
20 home, county infirmary, county hospital, county mental health center, ~~tuberculosis~~  
21 ~~sanatorium~~, adult family home, assisted living facility, rural medical center, hospice  
22 or other place licensed, certified or approved by the department of health and family  
23 services under s. 49.70, 49.71, 49.72, 50.02, 50.03, 50.032, 50.033, 50.034, 50.35,  
24 50.52, 50.90, 51.04, 51.08, or 51.09, ~~58.06, 252.073~~ or ~~252.076~~ or a facility under s.

1 45.365, 51.05, 51.06 or 252.10 or under ch. 233 or licensed or certified by a county  
2 department under s. 50.032 or 50.033.

3 **SECTION 9423. Effective dates; health and family services.**

4 (1) TUBERCULOSIS. The treatment of sections 252.10 (7)✓ and 610.70 (1) (e)✓ of the  
5 statutes take effect on June 1, 1999, or on the day after publication, whichever is  
6 later.

7 (END)

1999-2000 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0183/lins  
TAX.....

**insert anal**

This bill removes from the statutes outdated references to tuberculosis sanatoriums and hospitals. The bill also does all of the following with respect to tuberculosis:

1. Requires that laboratories that perform primary culture for mycobacteria also perform organism identification for mycobacterium tuberculosis and conduct antimicrobial drug susceptibility tests on the mycobacterium tuberculosis bacteria. The results of that test must be reported to the department of health and family services (DHFS).

2. Creates a process by which a person with infectious tuberculosis or with a suspected case of tuberculosis may be confined pending a hearing if the confinement is to be longer than 72 hours.

3. Permits local health departments to request from DHFS certification to establish and maintain a public health dispensary.

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

<sup>12-3</sup>  
**insert 3-4**

¶ 252.07 (10) Inpatient care for isolated pulmonary tuberculosis patients, and inpatient care exceeding 30 days for other pulmonary tuberculosis patients, who are not eligible for federal medicare benefits, for medical assistance under subch. ~~V~~ <sup>IV</sup> of ch. 49 or for health care services funded by a relief block grant under subch. II of ch. 49 may be reimbursed if provided by a facility contracted by the department. If the patient has private health insurance, the state shall pay the difference between health insurance payments and total charges.

History: 1993 a. 27 ss. 399, 401, 402, 404, 420; 1993 a. 213, 490; 1995 a. 27; 1997 a. 27.

**insert 3-13**

SECTION 1. 49.015 (1m) <sup>5.</sup> of the statutes is created to read:

49.015 (1m) <sup>5.</sup> The individual has infectious tuberculosis, as defined in s. 252.07 (1g) (a), or suspect tuberculosis, as defined in s. 252.07 (1g) (d).

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

99-0183/1dn

TAX.....

JG

Sue Jablonsky:

I appreciate the department's efforts in response to my previous drafter's note to provide me with clear redrafting instructions. I have made most of the changes requested. Please review the changes to ensure that I've captured the department's intent. In particular, please note the following:

1. I renumbered <sup>red</sup> s. 252.08 (3) to 252.07 (10) ✓ rather than repealing it in one place and creating it in another. This facilitates legislative history research and accomplishes the same result. I also amended the provision to correct an incorrect cross-reference.

2. To address the concern that an infected person <sup>check spacing</sup> not appear in person to a hearing I have included language found in s. 967.08 (1) ✓ that permits the hearing to be conducted by telephone or live audiovisual means, unless good cause is shown as to why that would not be permissible.

3. I have required the court to conduct a review every six months of confinements that are over six months. OK?

4. Although I agreed with the department that for the most part the use of the phrase "the department" would not cause confusion in s. 252.10 (1) ✓, there are a couple of instances in which confusion could result (in particular with respect to rules promulgated by "the department"). Nonetheless, I made the changes requested by the department because it seemed a silly battle to fight.

In addition, please note that I did not include a definition of "facility" because I was unsure how the department wanted it defined (other than to make sure it included a penal facility). I do not believe it's a problem to leave it undefined. It would just take on a rather broad dictionary definition. Also, leaving it undefined permits the department to create a definition by rule. If these results are unsatisfactory, please let me know what facilities should be included in the definition.

Finally, I kept the provisions requiring notice to the court whenever there is a confinement order for two reasons:

1. Whenever a person must be unwillingly detained, it is a pretty good idea in terms of due process to have the court involved right away, even if the court ultimately will do nothing with the information.

2. The court should be informed of the confinement immediately because of the likelihood that only 48 hours later a hearing will be necessary to detain the person for longer.

If these reasons do not satisfy the department, I can certainly remove the provision, but I recommend against it.

Tina A. Yacker  
Legislative Attorney  
261-6927

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

99-0183/1dn  
TAY:jlg:ijs

January 25, 1999

Sue Jablonsky:

I appreciate the department's efforts in response to my previous drafter's note to provide me with clear redrafting instructions. I have made most of the changes requested. Please review the changes to ensure that I've captured the department's intent. In particular, please note the following:

1. I renumbered s. 252.08 (3) to 252.07 (10) rather than repealing it in one place and creating it in another. This facilitates legislative history research and accomplishes the same result. I also amended the provision to correct an incorrect cross-reference.

2. To address the concern that an infected person not appear in person to a hearing I have included language found in s. 967.08 (1) that permits the hearing to be conducted by telephone or live audiovisual means, unless good cause is shown as to why that would not be permissible.

3. I have required the court to conduct a review every six months of confinements that are over six months. OK?

4. Although I agreed with the department that for the most part the use of the phrase "the department" would not cause confusion in s. 252.10 (1), there are a couple of instances in which confusion could result (in particular with respect to rules promulgated by "the department"). Nonetheless, I made the changes requested by the department because it seemed a silly battle to fight.

In addition, please note that I did not include a definition of "facility" because I was unsure how the department wanted it defined (other than to make sure it included a penal facility). I do not believe it's a problem to leave it undefined. It would just take on a rather broad dictionary definition. Also, leaving it undefined permits the department to create a definition by rule. If these results are unsatisfactory, please let me know what facilities should be included in the definition.

Finally, I kept the provisions requiring notice to the court whenever there is a confinement order for two reasons:

1. Whenever a person must be unwillingly detained, it is a pretty good idea in terms of due process to have the court involved right away, even if the court ultimately will do nothing with the information.

2. The court should be informed of the confinement immediately because of the likelihood that only 48 hours later a hearing will be necessary to detain the person for longer.

If these reasons do not satisfy the department, I can certainly remove the provision, but I recommend against it.

Tina A. Yacker  
Legislative Attorney  
261-6927