

# Memo

To: Rep. Krusick

(The Bill's Requestor)

**Attached is a fiscal estimate prepared for your 2001 draft that has not yet been introduced.**

LRB Number: LRB-3330

Version: "/ 1 "

Entered In Computer And Copy Sent To Requestor Via E-Mail: 10 / 11 / 2001

Fiscal Estimate Prepared By: (agency abbr.) DHFS

If you have questions about the attached fiscal estimate, you may contact the agency/ individual who prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.

\* \* \* \* \*

To: LRB – Legal Section PA's

Subject: Fiscal Estimate Received For A Un-Introduced Draft

- If this is **re-drafted** to a new version please attach this early fiscal estimate to the back of the draft's file between the old version and the new version.
- If this draft gets **introduced** ... and the version of the attached fiscal estimate is correct ... please write the drafts intro. number below and give this fiscal estimate to Mike (or Lynn) to process.

**THIS DRAFT WAS INTRODUCED AS:** 2001

- If this draft gets **introduced** ... and the version of the attached fiscal estimate is for a previous version ... please attach this early fiscal estimate to the back of the draft's file between the old version and the new version. Have Mike (or Lynn) get the ball rolling on getting a fiscal estimate prepared for the introduced version.

## Emery, Lynn

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**From:** Emery, Lynn  
**Sent:** Thursday, October 11, 2001 9:45 AM  
**To:** Rep.Krusick  
**Subject:** LRB-3330/1 (FE by DHFS - attached - for your review)



FE\_Krusick.pdf

FE\_Krusick.pdf

### Fiscal Estimate - 2001 Session

Original     
  Updated     
  Corrected     
  Supplemental

<b>LRB Number</b> <b>01-3330/1</b>	<b>Introduction Number</b>
<b>Subject</b>	
Convert current minimum nursing home staffing requirements to ratios	
<b>Fiscal Effect</b>	
<b>State:</b>	
<input checked="" type="checkbox"/> No State Fiscal Effect <input type="checkbox"/> Indeterminate	
<input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Create New Appropriations	<input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues
<input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decrease Costs	
<b>Local:</b>	
<input checked="" type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate	
1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory
2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory
<b>5. Types of Local Government Units Affected</b>	
<input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts	
<b>Fund Sources Affected</b>	
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS	
<b>Affected Ch. 20 Appropriations</b>	
<b>Agency/Prepared By</b>	
DHFS/ Andy Forsaith (608) 266-7684	
<b>Authorized Signature</b>	
Fred Ellen Bove (608) 266-2907	
<b>Date</b>	
10/10/01	

**Fiscal Estimate Narratives**

**DHFS 10/11/01**

LRB Number 01-3330/1	Introduction Number	Estimate Type	Original
<b>Subject</b>			
Convert current minimum nursing home staffing requirements to ratios			

**Assumptions Used in Arriving at Fiscal Estimate**

Current law requires nursing homes that do not primarily serve the developmentally disabled to provide each patient with a minimum number of hours of nursing care per day. This bill directs the Department to convert the current minimum nursing hours standards to standards based on a minimum number of registered nurses, licensed practical nurses, and nurse's assistants per resident per day.

It is assumed that the new standards developed by the Department would not require nursing homes to increase nursing staff beyond the level required in the current standards. In addition, under the new standards, if the number of residents in a facility would require a fraction of a staff person, it is assumed that the Department would consider the facility in compliance if the staff person works a partial shift. For example, if the standard required 1 nursing staff for every 12 residents, and a facility has 126 residents, the standard would require 10.5 nursing staff. It is assumed that the Department would consider the facility in compliance if 10 staff work full shifts and one staff person works a half shift.

Based on these assumptions, this bill would not have a fiscal effect on state or local units of government.

**Long-Range Fiscal Implications**

[SOON - Inedit 10/18]

2001 - 2002 LEGISLATURE

LRB-3330/2

ISR:jld:rs

REDRAFT  
MAKER  
HAS BEEN  
RUN

2001 BILL

REGENERATE

1 AN ACT to amend 50.04 (2) (d) (intro.); and to create 50.04 (2) (e) of the statutes;  
2 relating to: minimum staffing requirements for nursing homes that do not  
3 primarily serve the developmentally disabled. and requiring the exercise  
of rule-making authority ✓

*Analysis by the Legislative Reference Bureau*

Current law requires nursing homes that do not primarily serve the developmentally disabled to provide each resident of the nursing home a minimum number of hours of nursing care per day according to the level of nursing care the resident requires. These minimum hours must be provided by a registered nurse, licensed practical nurse, or nurse's assistant.

~~This bill requires the department of health and family services (DHFS) to convert the minimum staffing requirements that are based on the number of hours of nursing care provided per day to minimum staffing requirements that are based on the number of registered nurses, licensed practical nurses, and nurse's assistants on duty per number of residents per day. The bill also requires DHFS to enforce the new staffing requirements beginning on the first day of the third month beginning after publication of the bill.~~

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

INSERT  
ANAL

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

BILL ✓

INSERT 2-1 →

1 <sup>Fix component</sup> SECTION 1. 50.04 (2) (d) ~~(intro.)~~ of the statutes is amended to read: *repealed.*

2 50.04 (2) (d) (intro.) ~~Each~~ Except as provided in par. (e), each nursing home,  
3 other than nursing homes that primarily serve the developmentally disabled, shall  
4 provide at least the following hours of service by registered nurses, licensed practical  
5 nurses, or nurse's assistants:

6 SECTION 2. 50.04 (2) (e) of the statutes is created to read:

7 50.04 (2) (e) The department shall convert the minimum staffing requirements  
8 specified in par. (d) to minimum staffing requirements that are based on the number  
9 of registered nurses, licensed practical nurses, and nurse's assistants on duty per  
10 residents per day. Beginning on the first day of the 3rd month beginning after the  
11 effective date of this paragraph ... [revisor inserts date], a nursing home, other than  
12 a nursing home that primarily serves the developmentally disabled, shall have on  
13 duty the number of registered nurses, licensed practical nurses, and nurse's  
14 assistants necessary to satisfy the minimum staffing requirements developed by the  
15 department under this paragraph.

16 →

(END)

INSERT 2-15

2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3330/2ins  
ISR:jld:rs

INSERT ANAL *instead*

This bill requires the department of health and family services (DHFS) to develop, by rule, minimum staffing standards that are based on ratios between the numbers of registered nurses, licensed practical nurses, and certified nurse's assistants (as defined in the bill) on duty in a nursing home per day and the number of residents of the nursing home. By January 1, 2004, minimum nursing home staffing requirements under current law are eliminated, and DHFS must convert those minimum staffing requirements to the minimum staffing standards DHFS has developed, must provide training to DHF'S staff on enforcement of the standards, and must assist nursing homes in implementing the standards. By this same time, nursing homes must have on duty the number of registered nurses, licensed practical nurses, and certified nurse's assistants necessary to satisfy the minimum staffing standards developed by DHFS. *to* support personnel and certain other nursing home staff may not be used for purposes of calculating the minimum staffing ratios.

Under the bill, DHFS must, by July 1, 2004, submit a report to the governor and to the legislature with recommendations as to methods by which nursing homes would be able more effectively recruit and retain caregivers; proposed revised minimum nursing home staffing ratios that minimize additional state costs, maximize access to care, and take into account patient acuity levels; and a proposed revised nursing home medical assistant reimbursement methodology. DHFS must develop the report after first referring to the most recent national research on nursing home staffing and consulting with specified persons and entities.

Lastly, under the bill, by July 1, 2004, and by July 1 every four years thereafter, the joint legislative council must create a nursing home staffing review committee to review and report to the joint legislative council on the adequacy of the nursing home staffing requirements and to investigate whether the staffing requirements should be based on a nursing home resident's acuity. Each committee created is dissolved after the first day of the ~~thirteenth~~ *13th* month after its creation.

**INSERT 2-1**

**SECTION 1.** *X* 13.84 of the statutes is created to read:

**13.84 Nursing home staffing review committee.** (1) By July 1, 2004, and by July 1 every 4 years thereafter, the joint legislative council shall create a nursing home staffing review committee to review the adequacy of the nursing home staffing requirements under s. *✓* 50.02 and to investigate whether the staffing requirements should be based on a nursing home resident's acuity. The committee shall consider current research and case data, as well as any other relevant resources, to assess

1 whether the staffing ratios are sufficient to meet the needs of nursing home  
2 residents. Each committee created under this subsection is dissolved after the first  
3 day of the 13th month after its creation.

4 (2) Each nursing home staffing review committee shall be composed of representatives of the legislative  
5 branch, advocates for nursing home residents, physicians, nurses, nursing home  
6 employees or their representatives, and other experts in the field of long-term care.

7 (3) No later than January 1, 2005, and no later than January 1 every 4 years  
8 thereafter, each committee then appointed shall report its findings and any  
9 recommendations to the joint legislative council.

10 **SECTION 2.** 50.02 (2) (bn) of the statutes is amended to read:

11 50.02 (2) (bn) The department may, by rule, increase the minimum hours of  
12 nursing home care per day staffing standards that are specified in s. 50.04 (2) (d) 1.  
13 to 3 (e).

History: 1971 c. 125, 161; 1973 c. 122, 323, 327, 333; 1975 c. 119, 260; 1975 c. 413 ss. 5 to 8; 1977 c. 29, 170, 418; 1981 c. 20, 121, 391; 1983 a. 542; 1985 a. 29; 1987 a. 161; 1989 a. 336; 1991 a. 250; 1993 a. 16, 327; 1995 a. 27 ss. 3222 to 3225, 9116 (5); 1995 a. 98; 1997 a. 237; 1999 a. 9, 103.

**INSERT 2-15**

14 **SECTION 3.** 50.04 (2) (e) of the statutes is created to read:

15 50.04 (2) (e) 1. In this paragraph, "certified nurse's assistant" means a nurse's  
16 assistant who meets the requirements specified under 42 USC 1296r (b) (5) (A) to (E).

17 2. The department shall develop minimum staffing standards that are based  
18 on ratios between the numbers of registered nurses on duty in a nursing home per  
19 day and the number of residents of the nursing home, between the numbers of  
20 licensed practical nurses on duty in a nursing home per day and the number of  
21 residents of the nursing home, and between the numbers of certified nurse's  
22 assistants on duty in a nursing home per day and the number of residents of the  
23 nursing home.



INS 2-15 cont

3. By January 1, 2004, the department shall convert the minimum staffing requirements specified in par. (d), 1999 stats., to the minimum staffing standards specified in subd. 2., shall provide training to staff on enforcement of the standards, and shall assist nursing homes in implementing the standards.

4. By January 1, 2004, a nursing home, other than a nursing home that primarily serves the developmentally disabled, shall have on duty the number of registered nurses, licensed practical nurses, and certified nurse's assistants necessary to satisfy the minimum staffing standards developed by the department under subd. 2.

5. A registered nurse, licensed practical nurse, or certified nurse's assistant who while on duty provides primarily support services, including food preparation, housekeeping, laundry, or maintenance services, may not be counted for purposes of calculating the minimum staffing ratios under subd. 2. A registered nurse who is employed as <sup>a</sup> ~~the~~ director of nursing ~~required under par. (a)~~, <sup>as</sup> ~~the~~ assistant director of nursing ~~required under par. (b)~~, <sup>or as</sup> and the charge nurse required under par. (b), may not be counted for purposes of calculating the minimum staffing requirements under subd. 2. while he or she is performing the duties of a director of nursing, assistant director of nursing, or charge nurse.

6. By July 1, 2004, after first referring to the most recent national research on nursing home staffing and consulting with representatives of the nursing home industry, labor unions that represent nursing home employees, advocates for elderly and disabled persons, recognized experts with experience in long term care reimbursement, economists, the attorney general, the federal centers for medicare and medicaid services, and other interested parties, the department shall submit a report to the governor, and to the chief clerk of each house of the legislature for

↳

INS 2-15 cont

1 distribution to the legislature under s. 13.172 (2).<sup>✓</sup> The report shall contain all of the  
2 following recommendations:

Proposed

3 a. Methods by which nursing homes are able more effectively<sup>to</sup> recruit and retain  
4 caregivers.

5 b. Proposed revised minimum nursing home staffing ratios that minimize  
6 additional state costs, maximize access to care, and take into account patient acuity  
7 levels.

8 c. A proposed revised nursing home medical assistance reimbursement  
9 methodology that more effectively promotes resident care of high quality, advances  
10 wages and benefits for nursing home workers, supports nursing home provider  
11 compliance with applicable state statutes and rules and federal statutes and  
12 regulations, and encourages administrative efficiency.

13 **SECTION 4. Nonstatutory provisions.**

14 (1) NURSING HOME STAFFING STANDARDS; RULES.<sup>✓</sup> The department of health and  
15 family services shall submit in proposed form the rules required under section 50.02  
16 (2) (bn) of the statutes, as ~~created~~<sup>affected</sup> by this act, to the legislative council staff under  
17 section 227.15 (1) of the statutes no later than the first day of the<sup>✓</sup> 13th month  
18 beginning after the effective date of this subsection.  
<sup>check Δ</sup>

19 **SECTION 5. Effective dates.** This act takes effect on the day after publication,  
20 except as follows:

21 (1) NURSING HOME STAFFING STANDARDS.<sup>✓</sup> The treatment of sections 50.02 (2) (bn)  
22 and 50.04 (2) (d) of the statutes takes effect on January 1, 2004.

(end ins 2-15)

## Emery, Lynn

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**From:** Emery, Lynn  
**Sent:** Friday, October 26, 2001 2:42 PM  
**To:** Rep.Krusick  
**Subject:** LRB-3330/2 (attached as requested)

Lynn Emery

Lynn Emery - Program Asst. (PH. 608-266-3561)  
(E-Mail: [lynn.emery@legis.state.wi.us](mailto:lynn.emery@legis.state.wi.us)) (FAX: 608-264-6948)

Legislative Reference Bureau - Legal Section - Front Office  
100 N. Hamilton Street - 5th Floor  
Madison, WI 53703

10/26/2001

11/01/01 Redraft : From Christian (Krusick)

-3330/2

6-1733

- ✓ ① Have audit bureau do review under s. 13.84 ~~performance~~ <sup>audit</sup>
- ✓ ② Have audit bureau consult w/ people under 13.84(2), except legislators, plus nursing home administrators
- ✓ ③ p. 3, l. 18 <sup>0025/2</sup> p. 7 - definitions of shifts per shift or "on a shift"
- ✓ ④ 50.04(2)(e) 2 - from rules establishing min. staffing standards
- ✓ ⑤ p. 3, l. 21 - July 1, 2003
- ✓ ⑥ p. 4, l. 14 - Jan. 1, 2005
- ✓ ⑦ p. 5, l. 12 - change to "(e)"
- ✓ ⑧ Change eff date to July 1, 2003
- ⑨ New provision: require DHS to report to gov + legis on 1/1/03 update on status of implementing new standards, converting ratios, etc.

11/01/01 From Christian: Answers to DAK

- ① To whom shd audit bureau report? Gov. + legis under 13.172(3)
- ② To whom shd. DHS report? ↗



### 2001 BILL

✓ requiring audits by the legislative audit bureau,  
requiring reports,

REGENERATE

- 1 AN ACT to repeal 50.04 (2) (d); to amend 50.02 (2) (bn); and to create 13.84 and
- 2 50.04 (2) (e) of the statutes; relating to: minimum staffing requirements for
- 3 nursing homes that do not primarily serve the developmentally disabled and
- 4 requiring the exercise of rule-making authority.

July 1, 2003

#### Analysis by the Legislative Reference Bureau

INSERT A1

Current law requires nursing homes that do not primarily serve the developmentally disabled to provide each resident of the nursing home a minimum number of hours of nursing care per day according to the level of nursing care the resident requires. These minimum hours must be provided by a registered nurse, licensed practical nurse, or nurse's assistant.

This bill requires the department of health and family services (DHFS) to develop, by rules, minimum staffing standards that instead are based on ratios between the numbers of registered nurses, licensed practical nurses, and certified nurse's assistants (as defined in the bill) on duty in a nursing home ~~per day~~ and the number of residents of the nursing home. ✓ By ~~January 1, 2004~~ <sup>July 1, 2003</sup>, minimum nursing home staffing requirements under current law are eliminated, and DHFS must convert those minimum staffing requirements to the minimum staffing standards ~~DHFS has developed~~, must provide training to DHFS staff on enforcement of the standards, and must assist nursing homes in implementing the standards. (By ~~this same time~~ <sup>July 1, 2003</sup>, nursing homes must have on duty the number of registered nurses, licensed practical nurses, and certified nurse's assistants necessary to satisfy the minimum staffing standards ~~developed by~~ DHFS. Support personnel and certain

promulgate rules to specify

Specified in the DHFS rules

July 1, 2003

specified in the rules

during morning, afternoon, and evening shifts

**BILL**

audit bureau

January 1, 2005

other nursing home staff may not be used for purposes of calculating the minimum staffing ratios.

Under the bill, DHFS must, by ~~July 1, 2004~~, submit a report to the governor and to the legislature with recommendations as to methods by which nursing homes would be able more effectively to recruit and retain caregivers; proposed revised minimum nursing home staffing ratios that minimize additional state costs, maximize access to care, and take into account patient acuity levels; and a proposed revised nursing home medical assistant reimbursement methodology. DHFS must develop the report after first referring to the most recent national research on nursing home staffing and consulting with specified persons and entities.

48 months

Also

~~Lastly, under the bill, by July 1, 2004, and by July 1 every four years thereafter, the joint legislative council must create a nursing home staffing review committee to review and report to the joint legislative council on the adequacy of the nursing home staffing requirements and to investigate whether the staffing requirements should be based on a nursing home resident's acuity. Each committee created is dissolved after the first day of the 13th month after its creation.~~

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

✓ INSERT A 2

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

13.94 (12) ✓

13.94

NURSING HOME STAFFING.

1

SECTION 1. ~~13.84~~ of the statutes is created to read:

2

~~13.84 Nursing home staffing review committee.~~ (1) (By July 1, 2004, and

3

by July 1 every ~~year~~ thereafter, the ~~joint~~ legislative council shall create a nursing

48 months

4

home staffing review committee to review the adequacy of the nursing home staffing

5

requirements under s. ~~50.02~~ and to investigate whether the staffing requirements

6

should be based on a nursing home resident's acuity. The ~~committee~~ shall consider

7

current research and case data, as well as any other relevant resources, ~~to assess~~

8

whether the staffing ratios are sufficient to meet the needs of nursing home

9

residents. ~~Each committee created under this subsection is dissolved after the first~~

10

~~day of the 13th month after its creation.~~

INSERT 2-10 ✓

✓ INSERT 2-6

11

(2) ~~Each nursing home staffing review committee shall be composed of~~

12

~~representatives of the legislative branch, advocates for nursing home residents,~~

audit bureau shall perform a performance evaluation audit

legislative audit bureau

**BILL**

1 physicians, nurses, nursing home employees or their representatives, and other  
2 experts in the field of long-term care.

3 (3) No later than January 1, 2005, and no later than January 1 every 4 years  
4 thereafter, each nursing home staffing review committee then appointed shall report  
5 its findings and any recommendations to the joint legislative council.

6 **SECTION 2.** 50.02 (2) (bn) of the statutes is amended to read:

7 50.02 (2) (bn) The department may, by rule, increase the minimum hours of  
8 nursing home care per day staffing standards that are specified in s. 50.04 (2) (d) 1.

9 to 3 (e) ✓  
↑ score

10 **SECTION 3.** 50.04 (2) (d) of the statutes is repealed:

11 **SECTION 4.** 50.04 (2) (e) of the statutes is created to read:

12 50.04 (2) (e) 1. In this paragraph, "certified nurse's assistant" means a nurse's  
13 assistant who meets the requirements specified under 42 USC 1296r (b) (5) (A) to (E).

INSERT  
3-13 ✓

14 2. The department shall ~~develop~~ promulgate rules that specify minimum staffing standards that are based

15 on ratios between the numbers of registered nurses on duty in a nursing home per

16 ~~day~~ and the number of residents of the nursing home, between the numbers of

17 licensed practical nurses on duty in a nursing home per ~~day~~ and the number of

18 residents of the nursing home, and between the numbers of certified nurse's

19 assistants on duty in a nursing home per ~~day~~ and the number of residents of the

20 nursing home.

July 1, 2003 ✓

21 3. By ~~January 1, 2004~~, the department shall convert the minimum staffing

22 requirements specified in par. (d), 1999 stats., to the minimum staffing standards

23 specified in subd. 2., shall provide training to staff on enforcement of the standards,

24 and shall assist nursing homes in implementing the standards.

morning work shift, afternoon work shift, or evening work shift ✓

**BILL**

July 1, 2003 ✓

① 4. By ~~January 1, 2004~~, a nursing home, other than a nursing home that primarily serves the developmentally disabled, shall have on duty the number of registered nurses, licensed practical nurses, and certified nurse's assistants necessary to satisfy the minimum staffing standards developed by the department under subd. 2.

5. A registered nurse, licensed practical nurse, or certified nurse's assistant who while on duty provides primarily support services, including food preparation, housekeeping, laundry, or maintenance services, may not be counted for purposes of calculating the minimum staffing ratios under subd. 2. A registered nurse who is employed as a director of nursing, as an assistant director of nursing, or as the charge nurse required under par. (b), may not be counted for purposes of calculating the minimum staffing requirements under subd. 2. while he or she is performing the duties of a director of nursing, assistant director of nursing, or charge nurse.

January 1, 2005 ✓

① 6. By ~~July 1, 2004~~, after first referring to the most recent national research on nursing home staffing and consulting with representatives of the nursing home industry, labor unions that represent nursing home employees, advocates for elderly and disabled persons, recognized experts with experience in long-term care reimbursement, economists, the attorney general, the federal centers for medicare and medicaid services, and other interested parties, the department shall submit a report to the governor, and to the chief clerk of each house of the legislature for distribution to the legislature under s. 13.172 (2). The report shall contain all of the following recommendations:

a. Proposed methods by which nursing homes are able more effectively to recruit and retain caregivers.





INSERT A1

no# DHFS must, by January 1, 2003, report to  
==== to =

the governor and the legislature concerning

the status of the DHFS compliance with these  
=====

requirements.

(end ins A1)

INSERT A 2

no #

perform a performance evaluation audit of  
the nursing home staffing requirements,

investigate whether the staffing requirements

should be based on a nursing home resident's

acuity, and file a report of the audit

with the governor and the legislature.

(end ins)

(INSERT 2-6)

~~NO~~ # consult advocates for nursing home residents,  
physicians, nurses, nursing home employees  
or their representatives, nursing home administrators,  
and other experts in the field of long-term  
care and shall ~~NO~~ #

(end ins 2-6)

INSERT 2-10

~~not~~ The legislative audit bureau shall file a report  
of each audit with the legislature under s. 13.172(3)  
and with the governor no later than 30 days  
after completion of the audit.

(end ins)

INSERT 3.12

¶ a. "Afternoon work shift" means the 8<sup>1/2</sup>-hour work shift that begins immediately after the morning shift.

¶ b. (NO ¶)

(end ins)

INSERT 3-13

# c. "Evening work shift" means the 8-hour work shift that begins immediately after the afternoon work shift.

# d. "Morning work shift" means the first 8-hour work shift that begins after midnight.

(END INS)

INSERT 5-14

(CS)

# #  
~~(2)~~ NURSING HOME STAFFING STANDARDS; REPORT.

(2) (4) By January 1, 2003, the department of health and family services shall report to the legislature in the manner provided under section 13.172(3) of the statutes and to the governor concerning the status of the department's compliance with the requirements of section 50.04(2)(e) 3. of the statutes, as created by this act.

(end ins)



**Emery, Lynn**

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**From:** Emery, Lynn

**Sent:** Wednesday, November 21, 2001 1:27 PM

**To:** Rep.Krusick

**Subject:** LRB-3330/3 (attached as requested)

Lynn Emery

Lynn Emery - Program Asst. (PH. 608-266-3561)  
(E-Mail: [lynn.emery@legis.state.wi.us](mailto:lynn.emery@legis.state.wi.us)) (FAX: 608-264-6948)

Legislative Reference Bureau - Legal Section - Front Office  
100 N. Hamilton Street - 5th Floor  
Madison, WI 53703

11/21/2001

## TELEPHONE DRAFTING INSTRUCTIONS

Drafting instructions received by Debora Kennedy.

DATE: 11/27/01

CONVERSATION WITH: Christian

OF: Krusick's

TELEPHONE NO:

REGARDING LRB # OR DRAFT TOPIC: -3330/3

INSTRUCTIONS: Redraft: add "facilitate care of the highest quality to p. 5, 1-6.

### Fiscal Estimate - 2001 Session

Original       Updated       Corrected       Supplemental

LRB Number **01-3330/3** Introduction Number

**Subject**  
 Convert current minimum nursing home staffing requirements to ratios

**Fiscal Effect**

**State:**

No State Fiscal Effect  
 Indeterminate

Increase Existing Appropriations       Increase Existing Revenues  
 Decrease Existing Appropriations       Decrease Existing Revenues  
 Create New Appropriations

Increase Costs - May be possible to absorb within agency's budget  
 Yes       No  
 Decrease Costs

**Local:**

No Local Government Costs  
 Indeterminate

1.  Increase Costs      3.  Increase Revenue  
 Permissive  Mandatory       Permissive  Mandatory

2.  Decrease Costs      4.  Decrease Revenue  
 Permissive  Mandatory       Permissive  Mandatory

5. Types of Local Government Units Affected  
 Towns       Village       Cities  
 Counties       Others  
 School Districts       WTCS Districts

**Fund Sources Affected**      **Affected Ch. 20 Appropriations**

GPR     FED     PRO     PRS     SEG     SEGS

Agency/Prepared By	Authorized Signature	Date
DHFS/ Mark Resheske (608) 267-0356	Fredi Ellen Bove (608) 266-2907	12/13/01

*copy sent to Rep. Krusick (12-13-01)*

*FE's for old "1/3" version*

*Draft is now a "1/4"*

## Fiscal Estimate Narratives

DHFS 12/13/01

LRB Number 01-3330/3	Introduction Number	Estimate Type	Original
<b>Subject</b>			
Convert current minimum nursing home staffing requirements to ratios			

### Assumptions Used in Arriving at Fiscal Estimate

Current law requires nursing homes that do not primarily serve the developmentally disabled to provide each patient with a minimum number of hours of nursing care per day. This bill directs the Department to convert the current minimum nursing hours standards to standards based on a minimum number of registered nurses, licensed practical nurses, and nurse's assistants per resident per day.

It is assumed that the new standards developed by the Department would not require nursing homes to increase nursing staff beyond the level required in the current standards. In addition, under the new standards, if the number of residents in a facility would require a fraction of a staff person, it is assumed that the Department would consider the facility in compliance if the staff person works a partial shift. For example, if the standard required 1 nursing staff for every 12 residents, and a facility has 126 residents, the standard would require 10.5 nursing staff. It is assumed that the Department would consider the facility in compliance if 10 staff work full shifts and one staff person works a half shift.

Based on these assumptions, changes in the bill related to staffing standards would not have a fiscal effect on state or local units of government.

Under the bill DHFS must submit a report to the Governor and the Legislature with recommendations as to methods by which nursing homes would be more able to effectively recruit and retain caregivers; proposed revised minimum nursing home staff ratios that minimize state costs, maximize access to care, and take into account patient acuity levels; and a proposed revised nursing home Medical Assistance reimbursement methodology.

### Long-Range Fiscal Implications

The Department would need to expend significant staff time and possibly incur additional expenses in researching and developing the report. However it is not possible to estimate the workload and costs associated with the report, and therefore the precise fiscal effect of this provision cannot be determined.

### Fiscal Estimate - 2001 Session

Original       Updated       Corrected       Supplemental

<b>LRB Number</b> 01-3330/3	<b>Introduction Number</b>	
<b>Subject</b> Convert current minimum nursing home staffing requirements to ratios		
<b>Fiscal Effect</b>		
<b>State:</b>		
<input type="checkbox"/> No State Fiscal Effect <input checked="" type="checkbox"/> Indeterminate		
<input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Create New Appropriations	<input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decrease Costs
<b>Local:</b>		
<input checked="" type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate		
1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<b>5. Types of Local Government Units Affected</b> <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
<b>Fund Sources Affected</b>		<b>Affected Ch. 20 Appropriations</b>
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS		
<b>Agency/Prepared By</b>	<b>Authorized Signature</b>	<b>Date</b>
DHFS/ Mark Resheske (608) 267-0356	Fredi Ellen Bove (608) 266-2907	1/14/02

*copy sent to Rep. Krusick (01-14-02)*  
 → *FE is for old ~13" version*  
 → *draft is now a "14"*

## Fiscal Estimate Narratives

DHFS 1/14/02

LRB Number <b>01-3330/3</b>	Introduction Number	Estimate Type <b>Updated</b>
<b>Subject</b> Convert current minimum nursing home staffing requirements to ratios		

### Assumptions Used in Arriving at Fiscal Estimate

Current law requires nursing homes that do not primarily serve the developmentally disabled to provide each patient with a minimum number of hours of nursing care per day. This bill directs the Department to convert the current minimum nursing hours standards to standards based on a minimum number of registered nurses, licensed practical nurses, and nurse's assistants per resident per work shift per day.

It is assumed that the new standards developed by the Department would not require nursing homes to increase nursing staff beyond the level required in the current standards. In addition, under the new standards, if the number of residents in a facility would require a fraction of a staff person, it is assumed that the Department would consider the facility in compliance if the staff person works a partial shift. For example, if the standard required 1 nursing staff for every 12 residents, and a facility has 126 residents, the standard would require 10.5 nursing staff. It is assumed that the Department would consider the facility in compliance if 10 staff work full shifts and one staff person works a half shift.

Because the bill would require separate staff to resident ratios for each work shift, it is possible that a facility would have to reassign staff from a morning to an evening shift to be in compliance. If so the facility may incur a modest additional expense for shift differential pay for those staff.

Based on these assumptions, changes in the bill related to staffing standards would not have a measurable fiscal effect on state or local units of government.

Under the bill DHFS must submit a report to the Governor and the Legislature with recommendations as to methods by which nursing homes would be more able to effectively recruit and retain caregivers; proposed revised minimum nursing home staff ratios that minimize state costs, maximize access to care, and take into account patient acuity levels; and a proposed revised nursing home Medical Assistance reimbursement methodology.

The Department would need to expend significant staff time and possibly incur additional expenses in researching and developing the report. However it is not possible to estimate the workload and costs associated with the report, and therefore the precise fiscal effect of this provision cannot be determined.

### Long-Range Fiscal Implications

### Fiscal Estimate - 2001 Session

Original     
  Updated     
  Corrected     
  Supplemental

<b>LRB Number</b> <b>01-3330/3</b>	<b>Introduction Number</b>	
<b>Subject</b>		
Convert current minimum nursing home staffing requirements to ratios		
<b>Fiscal Effect</b>		
<b>State:</b> <input type="checkbox"/> No State Fiscal Effect <input type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Decrease Existing Revenues <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Create New Appropriations <input type="checkbox"/> Decrease Costs		
<b>Local:</b> <input type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate 1. <input type="checkbox"/> Increase Costs      3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs      4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory		
<b>5. Types of Local Government Units Affected</b> <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts		
<b>Fund Sources Affected</b> <b>Affected Ch. 20 Appropriations</b> <input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS s. 20.765 (3)(c)		
<b>Agency/Prepared By</b>	<b>Authorized Signature</b>	<b>Date</b>
LAB/ Jacob Klam (608) 259-9828	Jacob Klam (608) 259-9828	1/24/02

FE sent to Rep. Krusick (01-24-02)  
 ↪ FE is for old "13" version  
 ↪ draft is now a "14"

## Fiscal Estimate Narratives

LAB 1/24/02

LRB Number	01-3330/3	Introduction Number	Estimate Type	Original
<b>Subject</b>				
Convert current minimum nursing home staffing requirements to ratios				

### Assumptions Used in Arriving at Fiscal Estimate

LRB-3330/3 requires that the Legislative Audit Bureau conduct an evaluation of nursing home staffing requirements under s. 50.04(2) by July 1, 2004, and every 4 years thereafter. The evaluation can be accommodated within current agency operations, though the evaluations may delay other evaluation projects and reduce the flexibility of the Joint Legislative Audit Committee in directing the Audit Bureau to conduct future evaluations.

### Long-Range Fiscal Implications



WEDNESDAY 10/28

2001 BILL

only changes pp. 2 + 5

Regen

1 AN ACT *to repeal* 50.04 (2) (d); *to amend* 50.02 (2) (bn); and *to create* 13.84 and  
 2 50.04 (2) (e) of the statutes; **relating to:** minimum staffing requirements for  
 3 nursing homes that do not primarily serve the developmentally disabled,  
 4 requiring audits by the legislative audit bureau, requiring reports, and  
 5 requiring the exercise of rule-making authority.

***Analysis by the Legislative Reference Bureau***

Current law requires nursing homes that do not primarily serve the developmentally disabled to provide each resident of the nursing home a minimum number of hours of nursing care per day according to the level of nursing care the resident requires. These minimum hours must be provided by a registered nurse, licensed practical nurse, or nurse's assistant.

This bill requires the department of health and family services (DHFS) to promulgate rules to specify minimum staffing standards that instead are based on ratios between the numbers of registered nurses, licensed practical nurses, and certified nurse's assistants (as defined in the bill) on duty in a nursing home during morning, afternoon, and evening shifts and the number of residents of the nursing home. By July 1, 2003, minimum nursing home staffing requirements under current law are eliminated, and DHFS must convert those minimum staffing requirements to the minimum staffing standards specified in the DHFS rules, must provide training to DHFS staff on enforcement of the standards, and must assist nursing homes in implementing the standards. DHFS must, by January 1, 2003, report to

**BILL**

✓ facilitate care of the highest quality,

the governor and to the legislature concerning the status of the DHFS compliance with these requirements. By July 1, 2003, nursing homes must have on duty the number of registered nurses, licensed practical nurses, and certified nurse's assistants necessary to satisfy the minimum staffing standards specified in the DHFS rules. Support personnel and certain other nursing home staff may not be used for purposes of calculating the minimum staffing ratios.

Under the bill, DHFS must, by January 1, 2005, submit a report to the governor and to the legislature with recommendations as to methods by which nursing homes would be able more effectively to recruit and retain caregivers; proposed revised minimum nursing home staffing ratios that minimize additional state costs, maximize access to care, and take into account patient acuity levels; and a proposed revised nursing home medical assistant reimbursement methodology. DHFS must develop the report after first referring to the most recent national research on nursing home staffing and consulting with specified persons and entities.

Also, under the bill, by July 1, 2004, and by July 1 every 48 months thereafter, the legislative audit bureau must perform a performance evaluation audit of the nursing home staffing requirements, investigate whether the staffing requirements should be based on a nursing home resident's acuity, and file a report of the audit with the governor and the legislature.

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

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

1           SECTION 1. 13.94 (12) ✓ of the statutes is created to read:

2           13.94 (12) NURSING HOME STAFFING. By July 1, 2004, and by July 1 every 48  
3 months thereafter, the legislative audit bureau shall perform a performance  
4 evaluation audit of the nursing home staffing requirements under s. 50.04 (2) and  
5 investigate whether the staffing requirements should be based on a nursing home  
6 resident's acuity. The legislative audit bureau shall consult advocates for nursing  
7 home residents, physicians, nurses, nursing home employees or their  
8 representatives, nursing home administrators, and other experts in the field of  
9 long-term care and shall consider current research and case data, as well as any  
10 other relevant resources, in assessing whether the staffing ratios are sufficient to  
11 meet the needs of nursing home residents. The legislative audit bureau shall file a

**BILL**

1 report of each audit with the legislature under s. 13.172 (3) and with the governor  
2 no later than 30 days after completion of the audit.

3 **SECTION 2.** 50.02 (2) (bn) ✓ of the statutes is amended to read:

4 50.02 (2) (bn) The department may, by rule, increase the minimum hours of  
5 ~~nursing home care per day staffing standards~~ that are specified in s. 50.04 (2) (d) 1.  
6 ~~to 3.~~ (e).

7 **SECTION 3.** 50.04 (2) (d) ✓ of the statutes is repealed:

8 **SECTION 4.** 50.04 (2) (e) ✓ of the statutes is created to read:

9 50.04 (2) (e) 1. In this paragraph:

10 a. “Afternoon work shift” means the 8–hour work shift that begins immediately  
11 after the morning shift.

12 b. “Certified nurse’s assistant” means a nurse’s assistant who meets the  
13 requirements specified under 42 USC 1296r (b) (5) (A) to (E).

14 c. “Evening work shift” means the 8–hour work shift that begins immediately  
15 after the afternoon work shift.

16 d. “Morning work shift” means the first 8–hour work shift that begins after  
17 midnight.

18 2. The department shall promulgate rules that specify minimum staffing  
19 standards that are based on ratios between the numbers of registered nurses on duty  
20 in a nursing home per morning work shift, afternoon work shift, or evening work  
21 shift and the number of residents of the nursing home, between the numbers of  
22 licensed practical nurses on duty in a nursing home per morning work shift,  
23 afternoon work shift, or evening work shift and the number of residents of the  
24 nursing home, and between the numbers of certified nurse’s assistants on duty in a

**BILL**

1 nursing home per morning work shift, afternoon work shift, or evening work shift  
2 and the number of residents of the nursing home.

3 3. By July 1, 2003, the department shall convert the minimum staffing  
4 requirements specified in par. (d), 1999 stats., to the minimum staffing standards  
5 specified in subd. 2., shall provide training to staff on enforcement of the standards,  
6 and shall assist nursing homes in implementing the standards.

7 4. By July 1, 2003, a nursing home, other than a nursing home that primarily  
8 serves the developmentally disabled, shall have on duty the number of registered  
9 nurses, licensed practical nurses, and certified nurse's assistants necessary to satisfy  
10 the minimum staffing standards developed by the department under subd. 2.

11 5. A registered nurse, licensed practical nurse, or certified nurse's assistant  
12 who while on duty provides primarily support services, including food preparation,  
13 housekeeping, laundry, or maintenance services, may not be counted for purposes of  
14 calculating the minimum staffing ratios under subd. 2. A registered nurse who is  
15 employed as a director of nursing, as an assistant director of nursing, or as the charge  
16 nurse required under par. (b), may not be counted for purposes of calculating the  
17 minimum staffing requirements under subd. 2. while he or she is performing the  
18 duties of a director of nursing, assistant director of nursing, or charge nurse.

19 6. By January 1, 2005, after first referring to the most recent national research  
20 on nursing home staffing and consulting with representatives of the nursing home  
21 industry, labor unions that represent nursing home employees, advocates for elderly  
22 and disabled persons, recognized experts with experience in long-term care  
23 reimbursement, economists, the attorney general, the federal centers for medicare  
24 and medicaid services, and other interested parties, the department shall submit a  
25 report to the governor, and to the chief clerk of each house of the legislature for

**BILL**

1 distribution to the legislature under s. 13.172 (2). The report shall contain all of the  
2 following recommendations:

3 a. Proposed methods by which nursing homes are able more effectively to  
4 recruit and retain caregivers. ✓ *facilitate care of the highest quality*

5 b. Proposed revised minimum nursing home staffing ratios that minimize  
6 additional state costs, maximize access to care, and take into account patient acuity  
7 levels.

8 c. A proposed revised nursing home medical assistance reimbursement  
9 methodology that more effectively promotes resident care of high quality, advances  
10 wages and benefits for nursing home workers, supports nursing home provider  
11 compliance with applicable state statutes and rules and federal statutes and  
12 regulations, and encourages administrative efficiency.

**SECTION 5. Nonstatutory provisions.**

14 (1) NURSING HOME STAFFING STANDARDS; RULES. The department of health and  
15 family services shall submit in proposed form the rules required under section 50.02  
16 (2) (e) of the statutes, as affected by this act, to the legislative council staff under  
17 section 227.15 (1) of the statutes no later than the first day of the 13th month  
18 beginning after the effective date of this subsection.

19 (2) NURSING HOME STAFFING STANDARDS; REPORT. By January 1, 2003, the  
20 department of health and family services shall report to the legislature in the  
21 manner provided under section 13.172 (3) of the statutes and to the governor  
22 concerning the status of the department's compliance with the requirements of  
23 section 50.04 (2) (e) 3. of the statutes, as created by this act.

24 **SECTION 6. Effective dates.** This act takes effect on the day after publication,  
25 except as follows:

