

**2001 DRAFTING REQUEST**

**Bill**

Received: 12/28/2000

Received By: **kenneda**

Wanted: As time permits

Identical to LRB:

For: **Administration-Budget 7-7980**

By/Representing: **Mullikin**

This file may be shown to any legislator: **NO**

Drafter: **kenneda**

May Contact:

Alt. Drafters:

Subject: **Health - facility licensure**

Extra Copies: **ISR**

**Pre Topic:**

DOA:.....Mullikin -

**Topic:**

Forfeitures levied against facilities and treatment facilities

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kenneda 01/16/2001	csicilia 01/18/2001		_____			S&L
/1			kfollet 01/19/2001	_____	lrb_docadmin 01/19/2001		S&L
/2	kenneda 01/24/2001	jdyer 01/25/2001	rschluet 01/25/2001	_____	lrb_docadmin 01/25/2001		S&L
/3	kenneda 02/02/2001	jdyer 02/02/2001	kfollet 02/03/2001	_____	lrb_docadmin 02/03/2001		S&L
/4	kenneda	jdyer	rschluet	_____	lrb_docadmin		

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	02/07/2001	02/07/2001	02/07/2001	_____	02/07/2001		

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FE Sent For:

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**Instructions:**

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1?	kenneda	1/18 01 cjs / 1	1/19	1/19/cmh			

FE Sent For:

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# DHFS

Department of Health and Family Services  
2001-2003 Biennial Budget Statutory Language Request  
September 12, 2000

## Title: Chapters 50 and 51 Statutory Changes

### Current Language

Certain health care and long term care providers are governed by Chapters 50 and 51 of the state statutes.

### Proposed Change

- ✓ 1. Amend Chapter 50 to give the Department the authority to require existing nursing homes, community based residential facilities (CBRFs), and hospices that are in substantial non-compliance with state or federal requirements (as defined by the Department) to demonstrate that they are "fit and qualified" to continue operation.
2. Amend Chapters 50 and 51 to provide the Department the authority to take enforcement measures for all Chapter 50 providers and for treatment facilities under s. 51.04 that the Department can under current law for CBRFs under s. 50.03(5g).
3. Provide the Department the authority to levy forfeitures against all Chapter 50 providers and treatment facilities under s. 51.04. Set the maximum amount at \$5,000 per violation per day, except for nursing homes. Maintain current forfeiture maximums for nursing homes. \$ 2,000
- Deleted* ✓ 4. Require home health agencies to follow procedures prior to closing equivalent to those for nursing homes under s. 50.03(14).
5. Delete all references to provisional licenses in Chapter 50. Provide the Department the authority to issue conditional licenses, approvals, or certifications for all Chapter 50 providers and for treatment facilities under s. 51.04.

### Background and Rationale for the Change

- ✓ 1. *Fit and qualified requirements.* Under current law, nursing homes (under s.50.03(4)(a)1.a.), CBRFs (under s. 50.03(4)(a)1.b.), and hospices (under s. 50.92(2)) are required to demonstrate that they are "fit and qualified" before they are licensed. DHFS administrative rules for nursing homes state that in determining if a home is fit and qualified, the Department can consider, among other things, the applicant's enforcement and compliance

record in operating other residential or health care facilities, conviction for certain crimes, and financial failures that resulted in the bankruptcy or closing of other facilities. CBRF and hospice administrative rules contain similar provisions. Current law allows the Department to reject initial license applications for failure to meet the fit and qualified standards, but does not allow DHFS to require licensed facilities to demonstrate that they are fit and qualified on an ongoing basis. DHFS requests authority to require nursing homes, CBRFs, and hospices that are in substantial non compliance with state or federal requirements to demonstrate that they continue to be fit and qualified to operate. "Substantial non compliance" would be defined by the Department. These changes will strengthen the Department's ability to request financial information, from an existing provider if it suspects that the provider is experiencing financial difficulties and to require them to take steps to improve their financial situation. Through these methods, DHFS can reduce the number of providers that close for financial reasons or at minimum give the state more forewarning that they will close.

by rule?  
?

✓ 2. *Enforcement measures.* Department enforcement powers vary among provider types. For nursing homes and CBRFs, the Department may deny, suspend, or revoke licenses, issue forfeitures, require plans of correction, impose monitors and receiverships, and deny new admissions. For registered RCACs and certified AODA and mental health providers, the only action that the Department can take in response to non compliance is revocation of the certification or registration. For hospitals and home health agencies, the Department may issue injunctions in addition to revoking or suspending the license or approval. (The Department may assess forfeitures against hospitals and RCACs in limited cases.) The Department can assess forfeitures, issue injunctions against, and revoke or suspend the licenses of hospices. Without "intermediate" sanctions, the Department is faced with either taking the drastic step of putting the provider out of business, with the resulting disruption of care to residents and clients, or allowing the noncompliance to continue. The Department therefore requests authority to take enforcement actions against all Chapter 50 providers and treatment facilities under s. 51.04 equivalent to those that can be taken against CBRFs under 50.03(5g):

- order an unlicensed provider to cease operation
- order the provider to terminate any employee who operated a facility after that facility's license had been revoked
- order the provider to stop violation of any licensure rules and to submit and comply with a plan of correction
- bar the provider from accepting new admissions until violations are corrected
- order the provider to provide training to staff
- levy forfeitures
- revoke or suspend the provider's license

3. *Forfeitures.* For those Chapters 50 and 51 providers that the Department currently has the authority to levy forfeitures against, the maximum forfeiture amount varies. For CBRFs, the maximum amount is \$1,000 for each day of violation, for hospices, \$200, for rural medical centers, \$500, for nursing homes, \$10,000. The Department may not levy forfeitures (except under certain circumstances) against certified AODA and mental health providers, hospitals, home health agencies, RCACs, and adult family homes. The Department requests authority to



1) levy forfeitures on all Chapter 50 providers and treatment facilities under s. 51.04 and 2) raise the maximum forfeiture amount to \$5,000 for each day of violation for every facility except nursing homes. With these changes, the Department would be able to use the tool of forfeitures with all providers to improve compliance with licensing rules and could levy forfeitures at amounts that would motivate providers to modify their performance. Large corporations are, in increasing numbers, operating adult family homes, CBRFs, home health agencies, and RCACs, and current forfeiture amounts are often not large enough to provide a sufficient deterrent for these entities.

*in what amount?*

*including treatment facilities?*

*and C-BRFs*

- ✓ 4. *Home health agency closings*. S. 50.03(14) requires nursing homes to follow specific procedures when it decides to close, change type or level of services, or means of reimbursement accepted or to relocate 5% of its residents. In principle part, the subsection requires homes to notify the residents 30 days prior to relocation, submit a relocation plan to the Department for approval, to not begin relocations before the plan has been approved, and to delay closing until 90 or 120 days (depending on the number of residents) after approval of the relocation plan. Other Chapter 50 and 51 provider types are not required to follow these procedures. The Department proposes amending Chapter 50 to require home health agencies that close to follow notification procedures and time lines equivalent to those in s. 50.03(14) and to submit transfer of service plans to the Department for approval. Home health agencies provide care to individuals who are ill, elderly, and disabled. When these agencies close suddenly, the care of these individuals can be disrupted. The Department proposes requiring these agencies to give proper notice of closing and plan for transitioning the care of their clients to other agencies.
- ✓ 5. Under s. 50.04(6), the department may replace a nursing homes current license with a conditional license for no more than one year if a "class A" or "class B" violation continues to exist in the facility. The license is conditioned on the facility completing a Department imposed plan of correction; if the plan is not completed, the facility is de-licensed. Under other sections of Chapter 50, the Department may issue provisional licenses for home health agencies, rural medical centers, and hospices for a limited amount of time under certain circumstances. The Department requests the authority to issue conditional licenses for all Chapter 50 providers and treatment facilities under s. 51.04 as a way for the Department to ensure better compliance by all providers with plans of correction. The Department also proposes to delete all language regarding provisional licenses in chapter 50. The Department seldom issues provisional licenses, and those licenses are often confused with conditional licenses.

Desired Effective Date: Upon passage  
Agency: DHFS  
Agency Contact: Andy Forsaith  
Phone: 266-7684

Plan for draft: Chapter 50 facilities

A. Conditional license

1. ~~RN 50.04(6)~~ 50.02(3g) for all agencies

Special provision for nursing homes

2. look over D-Note + change audits. re provis. licenses

3. Repeal 50.04(6), 50.03(4m), 50.49(10), 50.498(1)(c)

50.498(1m)  
50.498(3)

4. Search "provis. license"  
Search "cond license"

Am 50.498(1) —

50.498(4)  
50.52(2)

B. Fit + qualified - amend only the nhs cert + hospice stats

50.52(4)

50.925

50.93(1)

50.93(3)

C. Enforcement measures - sanctions + penalties <sup>except nhs</sup>

1. RN (50.02(3r) for all agencies, ~~50.03(5g)~~ <sup>50.03(5)</sup> ~~50.03(5g)~~

2. ~~50.03(5g)~~ Repeal independent sanctions

3. ~~50.03(5g)~~ ~~in condit. licenses with (3r)~~

3. RN 50.03(11) → 50.02(3r) (judicial review) + check X ref

4. Repeal independent sanctions, except 50.03(5g) + check X ref  
Repeal any independent judicial review

50.03(5g)  
MS 50.03(13)(d) ✓  
RP 50.034(8) ✓  
RP 50.035(11) ✓  
RP 50.38 ✓  
RP 50.55(1) ✓  
AM 50.55(2)(a) ✓  
RP 50.98 ✓

D. Forfeitures - make uniform?

1. In new 50.02(3m)(c), make except. for nhs. + raise to \$5000

2. Repeal all forfeiture stuff in other facis except nhs.

3. Search "forfeiture"

search "suspension + revocation"

50.034(8) ✓  
50.035(11) ✓

50.14(6)

50.38

50.98

search "hearing"

Facilities in Ch. 50

1. Nursing homes - licensed under 50.03(4)(a) 1. a.

2. C-ORFS - licensed under 50.03(4)(a) 1. b.

3. Adult family homes - certified under s. 50.032

4. Adult family homes - licensed under s. 50.033

5. Resid. care apt. complexes - certified under s. 50.034(1)(a)  
- registered under s. 50.034(1)(b)

6. Hospitals - approved under s. 50.35

7. Home health agencies - licensed under s. 50.49(6) (a)

8. Rural medical centers - licensed under s. 50.52

9. Hospices - licensed under s. 50.92

E. Home health agency closings

10/25 Provisional licenses

✓ RP 50.49(10)

✓ 50.498(1)(c), (1m), (3), (4)

F. Fit and qualified requirements

To do: ① Make sure nhs are excepted out of everything elsewhere that is the same as 50.04 (4) + (5)

② How do I deal with fact that 50.02(1d) & 50.92(1), etc define ~~entire~~ entities as licensed, etc., w/re single set of forfeitures + rules by unlicensed entities holding out as licensed?

Ch. 51 treatment facilities

51.45 (2)(c)

Note: 51.15(2)(a) talks about "hospital approved by  
DHS as detention facility or under Kw/co dept under  
51.42 or 51.437

51.45(8) → 50.04, except 51.45(8)(e)+(f) are repealed  
46.031(2r)(a) 3.

51.032(1)(e)

51.08

51.09

73.0301(1)(d) 3.

301.031(2r)(a) 3.

(8)(a) 51.45(2)(b), (c)

343.06(1)(d)

(8)(c) 51.45 ~~(2)~~ (2)(b), (c)

RC 51.04

46.043(3)(a) 2.

51.032(1)(b)

73.0301(1)(d) 3.

610.70(1)(e)

632.89(1)(e) 1.

10/26 Questions for Melissa Mueller → permission to confer w/ Andy Jansath

Instructions for "enforcement measures" p. 2 are for DHFS to take enforcement against all ch. 50 providers + 51.04 treatment providers equivalent to what may be taken against C-BRFs under 50.03(5g) — 50.03(5g) has a hearing, by the dept, under it

Does that mean that DHFS wants uniform hearing procedures for all providers?

To be conducted by DHFS or by DOA div. of hngs + appeals?

Uniform judicial review?

Wd. nursing homes keep their hearing for forfeitures?

Instructions for forfeitures are to raise max. forfeit. amt. to \$5000 each day for every facil. except n.h.'s.

What does this mean? Uniform forfeitures → for all except nursing homes?

## Kennedy, Debora

---

**From:** Forsaith, Andrew  
**Sent:** Wednesday, November 08, 2000 3:24 PM  
**To:** Kennedy, Debora  
**Cc:** Temple, Irene; Hagen, Julie; Prigioni, Rita; Mullikin, Melissa  
**Subject:** Answers to your questions

Debora: here finally are answers to your questions regarding the Department's statutory language request "Chapters 50 an 51 Statutory Changes."

Question: Do we want to replace existing nursing home enforcement language under s.50.04(4) with language equivalent to that under s.50.03(5g)?

Answer: Please leave the nursing home enforcement in s. 50.04 (4) as it current is, except add language equivalent to the language under in s. 50.03 (5g) (b) 8. "The licenses provide training to staff" and s. 50.03 (5g) (b) 2. "termination of an employe who had a license previously revoked..." Otherwise the language in 50.04 for nursing homes covers everything in 50.03 (5g).

✓ Question: Do we want the rights to hearings available under (5g)(f) to apply to all providers?

Answer: Yes, though please don't alter hearing rights and procedures that currently apply to nursing homes.

✓ Question: Should providers request hearings and hearings be conducted by the Department or the DOA division of hearings and appeals.

Answer: According to Irene Temple in the Office of Legal Counsel, all hearings are currently conducted by DOA, including those involving CBRFs, so the language should refer to DOA rather than the Department. Language in chapter 50 relating to hearings has yet to be fully updated in all cases to reflect the consolidation of hearings in DOA several years ago.

If you have any questions about the above, please call me at 6-7684

## Kennedy, Debora

---

**From:** Forsaith, Andrew  
**Sent:** Tuesday, November 28, 2000 2:57 PM  
**To:** Kennedy, Debora  
**Cc:** Kraus, Jennifer; Mullikin, Melissa  
**Subject:** Questions re: 50/51 changes

Debora: here are answers to your questions from a week (or two?) ago on our proposed changes to chapters 50 and 51.

There are no federal regulations regarding the certification of AODA and mental health treatment programs except for some rules regarding client confidentiality. The state Medicaid agency can determine the standards for these providers itself, unlike nursing homes, for example, where there are detailed federal certification standards.

Regarding the interactions between 51.04 and 51.45...hopefully I'm understanding your question correctly....51.04 gives the Department the authority/mandate to certify AODA and mental health treatment programs. 51.45 directs the department to establish standards which form the basis for the certification. In my view, 51.04 speaks to the certification process, and 51.45 addresses the substance. It would seem to me that language creating the authority to levy forfeitures and take other intermediate sanctions should be added to 51.04. 51.45 does not address topics such as when certification can be revoked or other nuts and bolts of the certification process.

FYI, the programs we are intending to cover under 51.04 are those AODA/MH programs governed by HFS 40, 61, 63, and 75.

I hope this helps; if it doesn't, perhaps we should a face to face meeting with the relevant program staff (if DOA approves)

**Kennedy, Debora**

**From:** Forsaith, Andrew  
**Sent:** Friday, January 05, 2001 3:37 PM  
**To:** Kennedy, Debora  
**Cc:** Mitchell, Barbara; Temple, Irene; Hagen, Julie; Prigioni, Rita; Schroeder, Susan; Kraus, Jennifer; Mullikin, Melissa  
**Subject:** Third wave of comments on LRB-0434/P1

Debora: as I warned in my email this morning, we have some additional comments on the draft LRB-0434/P1 (Chapter 50/51 changes). Just to recap, we have provided three sets of comments:

- 1) 12/22/00 email
- 2) 1/5/01 (morning) email
- 3) comments listed below

We may have additional comments on Monday regarding the chapter 51 changes, but hopefully not.

\*\*\*\*\*

✓ 1) This morning, I faxed you a copy of recommend changes to the home health agency closing language. I made an error on one of those pages, so I will fax you corrected versions of all three pages again to you. Sorry for the error.

*Ignore*

✓ 2) In my email this morning, in response to drafter's question 2.g., we indicated that we did not wish to have non statutory language allowing us to promulgate rules on an emergency basis regarding daily forfeiture levels. Just to clarify, we also do not want nonstatutory language ordering us to promulgate rules on this topic on a non emergency basis by a date certain. We want to have full discretion to promulgate rules or not.

*ok*

✓ 3) We would like to clarify the language regarding entities' rights to appeal sanctions and penalties to indicate that entities do not have the right to appeal notices of violation and orders to submit plans of correction to the Department. These orders are not penalties or sanctions and do not by themselves adversely affect the entity. Notices of violation are simply statements that the entity has failed to comply with a requirement. Orders to submit plans of correction require the entity to tell the Department how they will come into compliance. (By contrast, an order imposing a plan of correction (as in s. 50.02(3m)(a)5. of the draft) is an adverse action that would be appealable)

*ok*

We recommend that the following sentence be added to s. 50.02(3m)(e) (in section 29 of the draft, page 17): "This paragraph does not apply to the issuance of a notice of violation or the requirement to submit a plan of correction." (Note that we had asked for other revisions to this paragraph in our 12/22/00 comments as well.)

*ok?*

X 4) Regarding the overall structure of the draft, after some further consideration, program and legal staff feel that it would be clearer to providers and other users of chapter 50 to have the enforcement language created under s.50.02(3m) in the draft repeated for each provider type in each provider type rather than have it in one central location in s. 50.02. (For example, the s. 50.02(3m) language would be placed under s. 50.03(5g) for CBRFs and s. 50.49 for home health agencies). Providers tend to focus on their particular section of chapter 50 and are not be inclined to scour other portions of chapter 50 for provisions that affect them. Of course, it does not matter from a substantive standpoint whether the language is centralized or repeated in each provider's sections. However, department staff feel it would make the chapter more "user friendly" to have the language repeated.

*ok*



Alternatively, the language could be centralized, but placed in a separate subchapter with a heading that makes clear it applies to all chapter 50 providers. S.50.02 is currently in the "care and service residential facilities" subchapter, and nonresidential providers would not naturally look in that subchapter for language relevant to them. We understand that you may not have time to make such a fundamental change to the draft at this late date, and it is more important to make all our other requested changes. However, if you have time and energy, please consider adopting one of the two options described above.

Thanks again for your consideration.

DEPARTMENT OF HEALTH AND FAMILY SERVICES  
Office of Strategic Finance  
OSF-214(2/99)

STATE OF WISCONSIN

*Ignore, since  
DOA does not  
want*

FACSIMILE COVER MESSAGE  
(608) 267-0358 (FAX #)

TO: Deborah Kennedy LRB  
FROM: Andy Forsaith

Number of Pages (includes cover sheet): 4

Comments:

*Per my email this afternoon  
This replaces my fax from this morning*

*If a problem occurs with transmission, please contact Bonnie Niemann at 266-3816.*

OFFICE OF STRATEGIC FINANCE  
1 WEST WILSON STREET  
P.O. BOX 7850  
MADISON, WI 53707-7850

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LRB-0434/P1

DAK:cjs:pg

SECTION 52

1 50.49 (11) CLOSING OF A HOME HEALTH AGENCY. If a home health agency is closing,  
2 or intends to close, all of the following apply:

3 (a) The department may provide, direct, or arrange for planning, placement,  
4 and implementation services in order to minimize the trauma associated with the  
5 transfer of service delivery to patients and to ensure orderly service provider  
6 transfer.

7 (b) The county departments of the county in which the home health agency is  
8 located that are responsible for providing services under s. 46.215 (1) (L), 46.22 (1)

9 (b) 1. c., 51.42, or 51.437 shall participate in the development and implementation  
10 of individual patient service transfer plans. Any county department of another  
11 county shall participate in the development and implementation of individual  
12 patient service transfer plans in place of the county departments of the county in  
13 which the home health agency is located, if the county department accepts  
14 responsibility for the patient or is delegated responsibility for the patient by the  
15 department or by a court.

16 (c) The home health agency shall:

17 1. Provide at least 30 days' written notice prior to closing to each patient ~~who~~  
18 ~~is to be transferred to another service provider~~, to the patient's guardian, if any, and  
19 to a member of the patient's family, if practicable, unless the patient requests that  
20 notice to the family be withheld.

21 2. Attempt to resolve complaints from patients ~~under this section~~.

22 3. Identify and, to the greatest extent practicable, attempt to secure an  
23 appropriate alternate service provider for each patient to be transferred.

24 4. Consult the patient's physician on the effect on the ~~resident's~~ health of the  
25 proposed closing. *patient's*

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LRB-0434/P1  
DAK:cjs:pg  
SECTION 52

- 1           5. Hold a planning conference at which an individual patient transfer plan will  
2 be developed with the patient, with the patient's guardian, if any, and with a member  
3 of the patient's family, if practicable, unless the patient requests that a family  
4 member not be present. *discharge or*
- 5           6. Implement the individual patient transfer plan developed under subd. 5. *discharge or*
- 6           7. Notify the department of its intention to transfer patients to alternate  
7 service providers. The notice shall state the facts requiring the proposed transfer of  
8 patients and the proposed date of closing.
- 9           8. At the time the home health agency notifies the department under subd. 7.,  
10 submit to the department a preliminary plan that includes:
- 11           a. The proposed timetable for planning and implementation of transfers and  
12 the resources, policies, and procedures that the home health agency will provide or  
13 arrange in order to plan and implement the transfers.
- 14           b. A list of the patients to be transferred and their current ~~levels of care and~~  
15 ~~diagnosis, health status, + service needs~~  
~~and description of any special needs or conditions~~
- 16           c. *list of patients whom*  
~~An indication of which patients~~ have guardians and the names and addresses  
17 of the guardians.
- 18           d. A list of which patients have been protectively placed under ch. 55.
- 19           e. A list of the patients whom the home health agency believes to be  
20 incompetent.
- 21           (d) The department shall notify the home health agency within 10 days after  
22 receiving the preliminary plan under par. (c) 8., if it disapproves the plan. If the  
23 department does not notify the home health agency of disapproval, the plan is  
24 deemed approved. If the department disapproves the preliminary plan it shall,  
25 within 10 days of notifying the home health agency, begin working with the home

*The Dept shall be notified immediately if patients may be relocated until care transferred to another home health agency*

1 health agency to modify the disapproved plan. <sup>if</sup> ~~the~~ patients may be relocated until  
2 <sup>before</sup> the department approves the preliminary plan or ~~until~~ a modified plan is agreed  
3 upon. If a plan is not approved or agreed upon within 30 days of receipt of the notice  
4 of <sup>closing</sup> ~~relocation~~, the department may impose a plan that the home health agency shall  
5 carry out.

6 (e) Upon approval of, agreement to, or imposition of a plan for service transfer,  
7 the home health agency shall establish a date of closing and shall notify the  
8 department of the date. The date may not be earlier than 90 days from the date of  
9 approval, agreement, or imposition. ~~if 5 to 50 patients will require service transfer,~~  
10 ~~or 120 days from the date of approval, agreement, or imposition if more than 50~~  
11 ~~patients will require service transfer.~~

12 SECTION 53. 50.498 (1) (c) of the statutes is repealed.

13 SECTION 54. 50.498 (1m) of the statutes is amended to read:

14 50.498 (1m) If an individual who applies for a certificate of approval, license  
15 or provisional license or a license as specified under sub. (1) does not have a social  
16 security number, the individual, as a condition of obtaining the certificate of  
17 approval, license or provisional or the license, shall submit a statement made or  
18 subscribed under oath or affirmation to the department that the applicant does not  
19 have a social security number. The form of the statement shall be prescribed by the  
20 department of workforce development. A certificate of approval, license or  
21 provisional or a license issued in reliance upon a false statement submitted under  
22 this subsection is invalid.

23 SECTION 55. 50.498 (3) of the statutes is amended to read:

24 50.498 (3) Except as provided in sub. (1m), the department shall deny an  
25 application for the issuance of a certificate of approval, license or provisional or a

## Kennedy, Debora

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**From:** Forsaith, Andrew  
**Sent:** Friday, December 22, 2000 4:38 PM  
**To:** Kennedy, Debora  
**Cc:** Hagen, Julie; Prigioni, Rita; Woodford, LaVern; Woods, Otis; Kraus, Jennifer; Mullikin, Melissa  
**Subject:** Initial Comments re Chapter 50 & 51 revisions- LRB-0434/P1

Debora: Thank you for your draft for the changes to chapters 50 and 51. As you said, it's very complicated, and we're still pouring over it to answer your questions and provide additional feedback. Because of holiday vacation schedules, I don't think we will be able provide complete comments until the week of January 1. But we do have some comments today and hope to send more next week. ✓

The following comments were drafted by Irene Temple, in Office of Legal Counsel, and concern the appeal process for sanctions imposed under s. 50.02(3m). If you have questions about them, I recommend you call Irene at 7-7953, if that is OK with Melissa. We know the time window for making revisions will become more and more limited, and we will try to provide the remainder of our comments as soon as possible.

### Hearings.

When you circulated the draft instructions, you asked whether all hearings should be held by DHA instead of the Dept. I am afraid my answer was misleading. All hearings are already before DHA. When the statutes indicate that the Dept. is to hold a hearing, those hearings are delegated to DHA, and the resulting decisions are issued as proposed decisions. The parties can file objections before the proposed decision is issued. The OAH used to be part of the Dept. but is now part of DHA. Under other parts of chapter 50, (s. 50.04(5)(e), for example) DHA issues final decisions that can only be appealed to circuit court. *ok*

The Dept. did not intend to substitute final decisions for proposed decisions as part of this budget request.

The provision that provides for final decisions by DHA on CBRF forfeiture appeals in 50.035(11) appears to have been part of a 1999 budget package relating to fire safety and some other matters that affected RCACs, as well. Sec. 50.035 is titled "special provisions on CBRFs," but the guts of CBRF regulation are in 50.03(5g). That includes all of the sanctions, including forfeitures, and provides for hearings that result in proposed decisions. The draft uses the hearing language from 50.035 instead of 50.03(5g)(f). The Bureau of Quality Assurance issues cites under 50.03(5g) and has not been using the forfeiture provisions that were put into 50.035 last budget cycle. CBRF decisions, even those on forfeitures, are still issued as proposed decisions.

The Department wishes to continue to have the hearings result in proposed decisions. This change can be made by using 50.03(5g)(f) as the model for draft 50.02(3m)(e) instead of 50.035(11). This is SECTION 29 of the draft .

A second concern is about the proliferation of hearings w/in 30 days. Current law under s. 50.03(5g)(f) requires the hearing to be held within 30 days. The Department believes that this time period is too short. However, we believe it would be reasonable to indicate the 30 days apply to initiating pre-hearing proceedings. Accordingly, in the last sentence of s. 50.03(5g)(f) "a prehearing conference" should be substituted for "the hearing" and then used as the model for the text now appearing at SECTION 29 of the draft. See the following:

50.03(5g)(f) If a community-based residential facility desires to contest the revocation of a license or to contest the imposing of a sanction under this subsection, the community-based residential facility shall, within 10 days after receipt of notice under par. (e), notify the department in writing of its request for a hearing under s. 227.44. The department shall hold (the hearing) a prehearing conference within 30 days after receipt of such notice and shall send notice to the community-based residential facility of the hearing as provided under s. 227.44 (2).

*ole*



## Kennedy, Debora

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**From:** Forsaith, Andrew  
**Sent:** Friday, January 05, 2001 8:40 AM  
**To:** Kennedy, Debora  
**Cc:** Temple, Irene; Hagen, Julie; Prigioni, Rita; Schroeder, Susan; Kraus, Jennifer; Mullikin, Melissa  
**Subject:** More Comments re Chapter 50 & 51 revisions- LRB-0434/P1

Debora: here are additional comments on your draft for the revisions to chapters 50 and 51. We have some general comments and also answers to your questions. I may send you additional comments/requests later today and Monday.

Thanks for considering and accommodating these comments, and if you have questions, feel free to contact Irene Temple, Office of Legal Counsel, 7-7953, or me at 6-7684.

### General comments

The Department requests:

- ✓ 1. That certified adult family homes under s. 50.032 be removed from the definition under s. 50.02(1d)(c) and that all current statutory provisions for these facilities in chapter 50 be maintained. These homes are county regulated, and the Department does not want to burden counties with new regulatory requirements without county input. *ok*
- ✓ 2. That the sanction of suspension of license under s.50.02(3m)(b)2. of the draft be deleted. We request this deletion because suspension is rarely used for chapter 50 providers. These entities serve clients and residents who have substantial ongoing care needs, and it is too disruptive to close the entity temporarily. However, the Department requests that certification suspension language be kept under s. 51.04(4)(b)2. but that language limiting the suspension to 14 days be eliminated. ✓
- ✓ 4. That s. 50.04(4)(d) be repealed so that the standard for suspension of admissions for nursing homes will be the same for all other providers under s. 50.02(3m)(a)7. of the draft.
- ✓ 5. That the standards currently in place under 50.04(5)(b) for nursing homes and under s. 50.98(2) for hospices for determining when and in what amounts forfeitures should be imposed be added under the new s. 50.02(3m)(b) and under s. 51.04 to apply to all providers. *ok*
- ✓ 6. That s. 50.49(10) and s.50.93(3) not be deleted, and that the word "provisional" in these paragraphs be replaced with "probationary." Following our instructions, you had deleted references to provisional licenses in chapter 50. We had asked for those deletions because provisional licenses were often confused with conditional licenses. However, the Department uses the above paragraphs as authority to issue limited term licenses to new home health agencies and hospices. We would like to retain the authority to do so and to call those initial licenses probationary licenses. *ok*

Responses to drafter's questions:

- ✓ 1. b. OK as drafted
- ✓ c. OK as drafted.



✓ d. OK as drafted.

✓ e. OK as drafted

2 ✓ 2. a. Reference to "expiration" in this paragraph is appropriate.

✓ b. Please see the comments in the 12/22/00 email from Andy Forsaith to Debora Kennedy and Melissa Mullikin.

✓ c. The changes in the draft are appropriate.

d. We recommend that s. 50.053 not be folded into s. 50.02(3m)(em) because it is easier to find in a separate section.

✓ e. It appears that application denials are included under 50.03(5g)(e)3 renumbered to 50.02(3m)(d)3, and that is consistent with our intent.

✓ f. Please retain ss. 50.55(2) and (3) regarding criminal penalties and injunctions for rural medical centers.

✓ g. Please do not include emergency rule-making power regarding forfeiture amounts. In addition, after further thought, we would like the effective date for all the changes in this draft to be six months after enactment.

3. Home health agency closings: *Ignore; DDA does not want*

a. The draft is fine on this point.

b. We have a few changes to make the text more appropriate for home health agency closings; I will fax those changes to you and Melissa separately.

c. The draft is fine on this point.

4. a. We would like explicit authority to request financial information, but would want the language to be clear that that is not the only type of information entities may be asked to provide to demonstrate they are fit and qualified.

✓ 50.93(3g)

ok

✓ 50.03(4)(a)3. +

✓ (cm)3.

5. For chapter 51, we request that the draft retain the phrase in the current s. 51.04, "as a benefit to a medical assistance recipient under s.49.46(2)(b)6.f." While we recognize that the Department has authority to certify MA providers under s.49.45(2)(a)11, we believe it would be confusing to MA certified outpatient AODA and mental health treatment providers to delete the phrase from chapter 51. We believe the other chapter 51 changes are fine, but we will have Paul Harris, the attorney who is most familiar with chapter 51 and who has been on vacation, review the changes on Monday and provide any additional comments then.

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

LRB-0434/P1dn

DAK:cjs:pg

December 18, 2000

To Melissa Mullikin and Andy Forsaith:

This draft is very complex; I would appreciate it if not only you but also Irene Temple of DHFS would review it very carefully. The following issues have arisen in the course of drafting:

1. *Conditional licenses*

a. In order to avoid creating and duplicating lengthy passages concerning conditional licensing under each entity that is regulated in ch. 50, I have renumbered and amended s. 50.04 (6), stats., to achieve one provision, in s. 50.02 (3g), that applies to all entities.

✓  
ok b. Note that, in renumbering s. 50.04 (6) (a), stats., to be s. 50.02 (3g) (intro.) and (b), I deleted a sentence from s. 50.04 (6) (a), stats., that states "The nursing home may seek review of a decision to issue a conditional license as provided under s. 50.03 (5)." This language seems to make little sense; s. 50.03 (5), stats., has no language that speaks to issuance of a conditional license. Moreover, s. 50.04 (6) (d), stats., as renumbered in this draft to be s. 50.02 (3g) (e), contains a procedure for a case conference, after which the licensee may contest the basis for issuance of a conditional license. If I missed something here and the deleted sentence should be restored, please let me know.

✓  
ok c. Is the last sentence under s. 50.02 (3g) (f) (renumbered from s. 50.04 (6) (e), stats.) what you intend? Is the last sentence under s. 50.02 (3g) (h) (renumbered from s. 50.04 (6) (g), stats.) what you intend?

✓  
ok d. Please check s. 50.498 (1) (c) and (1m); do these provisions do what you intend?

ok as drafted, but look at individual  
e. Please closely review s. 50.02 (3g) (a) 2. to 9.; I was unsure whether you wanted conditional licenses, etc., issued for violations of all of the statutes listed. An alternative to what I have drafted, which more closely resembles the grounds on which nursing home conditional licenses are issued, would be, for example, " .... a violation by the community-based residential facility of an applicable provision of this chapter that creates a condition or occurrence that presents a substantial probability that death or serious mental or physical harm to a resident will result or that directly threatens the health, safety, or welfare of a resident." However, if you intend to use the latter, please look at the two standards under it carefully; it is difficult for me to see a difference between them.

2. *Enforcement measures*

ask again? no action given  
7. ✓ a. Please review s. 50.02 (3m) (d) 1. (renumbered from s. 50.03 (5g) (e), stats.). The second sentence, with reference to license, etc., *expiration*, does not seem to make sense. Does it make even less sense if conditional licensure is added?

✓ b. Please review s. 50.02 (3m) (e) (renumbered from s. 50.035 (11) (c), stats.), which sets forth hearing rights and conditions. Note that I did not amend s. 50.05, which has hearings for nursing homes, or affect the hearings specified in ss. 50.14 (6) and 50.39 (5) (b). Please also carefully check language that excepts nursing home forfeiture procedures in s. 50.04 (4) and (5), stats., from sanctions and penalties for the other providers; the language is in s. 50.02 (3m) (b) (intro.) (as renumbered from s. 50.03 (5g) (b) (intro.)). I am concerned that the exception be neither too exclusive nor too inclusive.

✓ c. Note that I provided for uniform judicial review of the sanctions, under s. 50.02 (3r) (renumbered from s. 50.03 (11), stats.). However, I did not affect s. 50.04, stats., except with respect to conditional licensure. Was this your intent with respect to judicial review, as well as imposition of forfeitures and hearings? Please review ss. 50.02 (3r) (d) and 51.04 (5) (c); do they work?

don't do d. Note that I renumbered s. 50.053, stats., as s. 50.02 (3m) (em).

✓ e. Note that I did not include denials of applications for licensure, etc., (that do not follow revocation of licensure, etc.) in s. 50.02 (3m). Does that comport with your intent?

✓ f. Do you want to repeal s. 50.55 (2) and (3), stats. (fine, imprisonment, and injunctive power with respect to rural medical centers)?

✓ g. Do you want emergency rule making power, without requiring a finding of emergency, for the rules under s. 50.02 (3m) (b) 1. a. (renumbered from s. 50.03 (5g) (c) 1. a., stats.)? Also, do you want to set a timeline (e.g., nine months), by which DHFS must submit proposed rules to the Legislative Council rules clearinghouse? It would probably be best to delay the effective date of these provisions by a year.

X 3. *Home health agency closings*

a. Your instructions were to follow s. 50.03 (14), stats., in creating language concerning home health agency closings; note that s. 50.49 (11) (intro.), as created, therefore, refers only to a closing and not to any of the other conditions currently specified in s. 50.03 (5m) (a) 1. to 6., stats., (such as, e.g., license revocation), to which s. 50.03 (14) refers. Is this drafted as you intended?

b. Please also read s. 50.49 (11) as a whole, in comparison with s. 50.03 (14), stats.; some of the language of the former necessarily differs from that of the latter, because of the difference between a facility and a service.

c. Do you want s. 50.49 (11) to apply only to the closing of a home health agency or to all the conditions specified for nursing homes under s. 50.03 (5m) (a) 5., stats.?

4. *Fit and qualified requirements*

✓ a. If, under s. 50.03 (4) (c) 3. and (cm) 3. and 50.95 (7), DHFS finds that the nursing home, C-BRF, or hospice is not "fit and qualified," I assume that DHFS may apply

sanctions under s. 50.02 (3m) (renumbered from s. 50.03 (5g) stats.). Do you want explicit authority to request financial information?

*Yes + make clear it's not the only info a fac. may be asked to provide*

✓ b. Please see Drafter's Note 2. g., above, with respect to the rules under ss. 50.03 (4) (c) 3. and (cm) 3. and 50.95 (7).

*revised*

5. *Treatment facilities*—Because it is my understanding that the new provisions concerning treatment facilities are intended to deal with all treatment facilities, including public and private and MA-funded and private pay, and to include treatment facilities that are specialized for mental health, developmental disability, or AODA care, I have renumbered to s. 51.04 or repealed applicable provisions in s. 51.45 (8), stats., (because that section, as a whole, deals with prevention and control of alcoholism only, even though the provisions under s. 51.45 (8) are applicable to treatment facilities throughout the chapter) and have created new provisions in s. 51.04, stats., which currently deals with certifications for MA, community aids, and insurance mandates. I have kept the provision currently in s. 51.04, stats., as s. 51.04 (2), but I have deleted from it the MA certification, because that is redundant to s. 49.45 (2) (a) 11., stats.

Debora A. Kennedy  
Managing Attorney  
Phone: (608) 266-0137  
E-mail: debora.kennedy@legis.state.wi.us

1/7/01 From Melissa Mullikin

What they now want is # 1, 3 + 5 on the 9/12/00  
memo from Andy Forsaith

Forfeitures (#3) to be at max. of \$1,000 ~~\$2,000~~

SOON - Inedit 1/16

D-NOTE

DOA:.....Mullikin - Facilities and treatment facilities licensing and enforcement changes

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

Do NOT GEN

1 AN ACT...; relating to: the budget.

*Analysis by the Legislative Reference Bureau*

**HEALTH AND HUMAN SERVICES**

**HEALTH**

Under current law, DHFS licenses, certifies, approves, or registers and otherwise regulates numerous health care services providers, including hospitals, nursing homes, community-based residential facilities (C-BRFs), adult family homes, residential care apartment complexes, rural medical centers, home health agencies, and hospices. Currently, the sanctions that DHFS may bring against those facilities or services that violate applicable standards of care or provisions of licensure, certification, approval, or registration vary as to the facility or service. The sanctions include denial of licensure, issuance of departmental orders, required submittal of a plan of correction, assessment of forfeitures, suspension of admissions, imposition of conditional licensure and suspension or revocation of licensure. (Unlike forfeitures for other facilities, nursing home forfeitures are fixed in amount using factors that concern the gravity of the violation, severity of harm, extent of violation, indications of good faith by the licensee, previous violations, and the financial benefit to the nursing home of committing or continuing the violation; nursing homes are also subject to notices of violation and correction orders.) Facilities or services on which sanctions or penalties are imposed may appeal the

The bill eliminates DHFS' authority to suspend licensure, certification, approval, or registration.

delegated by DHFS to be licensed

under current law

sanctions in hearings that are conducted by DHFS or, in the majority of instances, by the subunit of DOA that deals with hearings and appeals. Decisions that result from these hearings are subject to judicial review.

This bill makes uniform, with specified exceptions, the penalties and sanctions, and appeal rights for those penalties and sanctions, that DHFS may impose on hospitals, nursing homes, C-BRFs, adult family homes, residential care apartment complexes, rural medical centers, home health agencies, and hospices that violate conditions of licensure, certification, approval, or registration or applicable standards of care. Under the bill, if DHFS provides a facility or service with written notice of the grounds for a sanction, an explanation of the types of sanctions that DHFS may impose, and an explanation of the appeal process, DHFS may order that

C-BRF, hospital or home health agency

the facility or service (do any of the following: 1) if operating without licensure, certification, approval, or registration, cease operation; 2) terminate the employment of any person who operated or permitted operation of a facility or service for which licensure, certification, approval, or registration was revoked; 3) stop violating a provision of licensure, certification, approval, or registration; 4) submit a plan of correction for violation of a provision of licensure, certification, approval, or registration; 5) implement and comply with a plan of correction that is approved or developed by DHFS; 6) suspend new admissions until all violations are corrected; or 7) provide training in one or more specific areas for staff members. In addition, if DHFS provides the same type of written notice, DHFS may impose any of the following: \$2,000

1. Except for nursing homes, a daily administrative forfeiture of not less than \$10 nor more than \$5,000 for each violation, with each day of violation being a separate offense; the amount of the forfeiture and payment deadlines are specified by DHFS by rule, based on the size of the facility or service and the seriousness of the violation, and may be increased if there is continued failure to comply with a DHFS order.

for a C-BRF only

for a nursing home, C-BRF, or hospital only

2. Suspension of licensure, certification, approval, or registration for 14 days. Under specified circumstances, revocation of licensure, certification, approval, or registration.

for all facilities or services

The bill specifies procedures for requesting a hearing before the subunit of DOA that deals with hearings and appeals to contest suspension or revocation or the imposition of a sanction. The hearing is subject to judicial review under current law.

Under current law, nursing homes, C-BRFs, and hospices must demonstrate that they are "fit and qualified" in order to be licensed. This bill requires that licensed nursing homes, C-BRFs, and hospices, if they are in substantial noncompliance, as defined by DHFS by rule, with respect to applicable state or federal requirements, demonstrate that they are fit and qualified to operate. DHFS must, by rule, specify procedures regarding these findings.

Under current law, if a nursing home closes, intends to close, or is changing types or levels of service or accepted means of reimbursement so as to relocate at least five residents or five percent of all the nursing home's residents, DHFS and a county department of human services, developmental disabilities services, or community programs must participate in developing relocation plans, which the nursing home

licensed adult family homes, and home health agencies

must implement. The nursing home must submit to DHFS for approval a preliminary plan for the relocation, must provide residents with notice of the relocation, and must attempt to resolve complaints and to secure appropriate alternate placement for residents about to be relocated. This bill applies to home health agencies that are closing or that intend to close all the requirements currently applicable to nursing homes that close or intend to close.

Under current law, DHFS may issue a conditional license for up to one year to a nursing home and may revoke any outstanding license of the nursing home if DHFS finds that the nursing home has violated standards of care so as to create a condition or occurrence that presents a substantial probability that death or serious mental or physical harm to a resident will result or that directly threatens the health, safety, or welfare of a resident. Before issuing the conditional license, DHFS must establish a written plan of correction, provide written notice to the nursing home, and, at the nursing home's request, hold a case conference, after which a hearing may be held. DHFS must periodically inspect a nursing home operating under a conditional license and may revoke the conditional license if the nursing home substantially fails to follow the plan of correction. This bill authorizes DHFS to issue a conditional license, certification, approval, or registration that is similar to a conditional approval of a nursing home, to any facility or service that violates standards of care or provisions of licensure.

Under current law, DHFS may issue provisional licenses for home health agencies, rural medical centers, and hospices that have not previously been licensed, that are not in operation at the time the application for licensure is made, or that are temporarily unable to comply with standards of care. DHFS must inspect a hospice within 30 days before termination of the provisional license and either issue or deny a regular license. This bill eliminates provisions relating to provisional licenses for home health agencies, rural medical centers, and hospices.

*changes the term "provisional" to "probationary"*  
*for home health agencies and*

**MENTAL ILLNESS AND DEVELOPMENTAL DISABILITIES**

Under current law, DHFS approves and otherwise regulates public and private treatment facilities for the provision of services for mental illness, developmental disability, and alcohol and other drug abuse. DHFS may, after notice and hearing, grant, suspend, revoke, or limit such an approval, and a court may restrain violations of conditions of approval or standards of care by treatment facilities; review denials, restrictions, or revocations of approval; and grant other enforcement relief.

This bill changes current provisions concerning approval and other regulation of treatment facilities to specify penalties and sanctions that DHFS may impose on treatment facilities for violations of conditions of approval or standards of care; these penalties and sanctions are similar to those that DHFS may, under the bill, impose on facilities or services regulated by DHFS that provide medical care. Under the bill, if DHFS provides a treatment facility with written notice of the grounds for a sanction, an explanation of the types of sanctions that DHFS may impose, and an explanation of the appeal process, DHFS may order that the treatment facility do any of the following: 1) if operating without approval, cease operation; 2) terminate the employment of any person who operated or permitted operation of a treatment facility for which approval was revoked; 3) stop violating a provision of approval; 4)



submit a plan of correction for violation of a provision of approval; 5) implement and comply with a plan of correction that is approved or developed by DHFS; 6) suspend new admissions until all violations are corrected; or 7) provide training in one or more specific areas for staff members. In addition, if DHFS provides the same type of written notice, DHFS may impose any of the following:

1. A daily forfeiture of not less than \$10 nor more than \$5,000 for each violation, with each day of violation being a separate offense; the amount of the forfeiture and payment deadlines are specified by DHFS by rule, based on the size of the treatment facility and the seriousness of the violation, and may be increased if there is continued failure to comply with a DHFS order.

2. Suspension of approval for 14 days.

3. Under specified circumstances, revocation of approval.

The bill specifies procedures for requesting a hearing before the ~~subunit of DCA that deals with hearings and appeals~~ to contest suspension or revocation ~~or the imposition of a sanction~~. The hearing is subject to judicial review under current law.

Under current law, DHFS may issue a conditional license for up to one year to a nursing home and revoke any outstanding license of the nursing home, if DHFS finds that the nursing home has violated standards of care to create a condition or occurrence that presents a substantial probability that death or serious mental or physical harm to a resident will result or that directly threatens the health, safety, or welfare of a resident. Before issuing the conditional license, DHFS must establish a written plan of correction, provide written notice to the nursing home, and, at the nursing home's request, hold a case conference, after which a hearing may be held. DHFS must periodically inspect a nursing home operating under a conditional license and may revoke the conditional license if the nursing home substantially fails to follow the plan of correction. This bill authorizes DHFS to issue a conditional approval that is similar to a conditional license of a nursing home, to a treatment facility that violates standards of care or provisions of approval.

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:*

x 1 SECTION 1. 46.031 (2r) (a) 3. of the statutes is amended to read:

2 46.031 (2r) (a) 3. Is for the treatment of alcoholics in treatment facilities which

3 have not been approved by the department in accordance with s. 51.45 (8) 51.04 (1)

4 or conditionally approved by the department in accordance with s. 51.04 (3).

INSERT  
4-4 5

SECTION 2. 50.02 (1) of the statutes is renumbered 50.02 (1m).

x  
x 6

SECTION 3. 50.02 (1d) of the statutes is created to read:

1 50.02 (1d) DEFINITION. In this section, "entity" means any of the following:

2 (a) A nursing home that is licensed under s. 50.03 (4) (a) 1. a.

3 (b) A community-based residential facility that is licensed under s. 50.03 (4)

4 (a) 1. b.

5 ~~(c) An adult family home that is certified under s. 50.032.~~

6 (c) (d) An adult family home that is licensed under s. 50.033.

7 (d) (e) A residential care apartment complex that is certified under s. 50.034 (1)

8 (a) or registered under s. 50.034 (1) (b).

9 (e) (f) A hospital that is approved under s. 50.35.

10 (f) (g) A home health agency that is licensed under s. 50.49 (6) (a).

11 (g) (h) A rural medical center that is licensed under s. 50.52.

12 (h) (i) A hospice that is licensed under s. 50.92.

INSERT  
5-12

13 SECTION 4. 50.02 (3g) (a) 1. to <sup>5</sup> of the statutes are created to read:

14 50.02 (3g) (a) 1. A nursing home, if the department finds that either a class "A"  
15 violation, as specified in s. 50.04 (4) (b) 1., or a class "B" violation, as specified in s.  
16 50.04 (4) (b) 2., by the nursing home continues to exist.

17 2. A community-based residential facility, if the department finds that a  
18 violation by the community-based residential facility of an applicable provision of  
19 s. 50.03, 50.035, 50.037, 50.05, 50.06, 50.065, 50.07, or 50.09, or of a rule promulgated  
20 under an applicable provision of sub. (2) or (3) or s. 50.03, 50.035, 50.037, 50.05,  
21 50.06, 50.065, 50.07, or 50.09, continues to exist.

22 3. A certified adult family home, if the department finds that a violation by the  
23 adult family home of s. 50.032 or 50.065 or of a rule promulgated under s. 50.02 (2)  
24 (am) 1., 50.032, or 50.065 continues to exist.

① 4. <sup>3</sup> A licensed adult family home, if the department finds that a violation by the  
 2 adult family home of s. 50.033 or 50.065 or of a rule promulgated under s. 50.02 (2)  
 3 (am) 2., 50.033, or 50.065 continues to exist.

④ 5. <sup>4</sup> A certified or registered residential care apartment complex, if the  
 5 department finds that a violation by the residential care apartment complex of s.  
 6 50.034 or 50.065 or of a rule promulgated under s. 50.034 or 50.065 continues to exist.

⑦ 6. <sup>5</sup> A hospital, if the department finds that a violation by the hospital of s.  
 8 50.065, 50.35, 50.355, or 50.36 (3) or (3m) or of a rule promulgated under s. 50.065,  
 9 50.35, 50.355, or 50.36 (3) or (3m) continues to exist.

⑩ 7. <sup>6</sup> A home health agency, if the department finds that a violation by the home  
 11 health agency of s. 50.065 or 50.49 or of a rule promulgated under s. 50.065 or 50.49  
 12 continues to exist.

⑬ 8. <sup>7</sup> A rural medical center, if the department finds that a violation by the rural  
 14 medical center of s. 50.065, 50.53 (2), 50.535, or 50.54 (2) or of a rule promulgated  
 15 under s. 50.065, 50.53 (2), 50.535, or 50.54 (2) continues to exist.

⑯ 9. <sup>8</sup> A hospice, if the department finds that a violation by the hospice of s. 50.065,  
 17 50.92, 50.93 (1) to (3m), or 50.95 or of a rule promulgated under s. 50.065, 50.92, 50.93  
 18 (1) to (3m), or 50.95 continues to exist.

SECTION 5. 50.03 (2) (d) of the statutes is amended to read:

50.03 (2) (d) Any holder of a license or applicant for a license shall be deemed  
 to have given consent to any authorized officer, employee or agent of the department  
 to enter and inspect the facility in accordance with this subsection. Refusal to permit  
 such entry or inspection shall constitute grounds for initial licensure license denial,  
 as provided in sub. (4), ~~or suspension~~ or revocation of a license, as provided in sub.

(5) ~~s. 50.02 (3m)~~ (bm)

κ 1           **SECTION 6.** 50.03 (3) (f) of the statutes is amended to read:

2           50.03 (3) (f) Community-based residential facilities shall report all formal  
3 complaints regarding their operation filed under sub. (2) (f) and the disposition of  
4 each when reporting under sub. (4) (c) ~~1.~~ 2m.

κ 5           **SECTION 7.** 50.03 (4) (a) 1. b. of the statutes is amended to read:

6           50.03 (4) (a) 1. b. Except as provided in sub. (4m) (b), the department shall issue  
7 a license for a community-based residential facility if it finds the applicant to be fit  
8 and qualified, if it finds that the community-based residential facility meets the  
9 requirements established by this subchapter and if the community-based  
10 residential facility has paid the license fee under s. 50.037 (2) (a). In determining  
11 whether to issue a license for a community-based residential facility, the department  
12 may consider any action by the applicant or by an employee of the applicant that  
13 constitutes a substantial failure by the applicant or employee to protect and promote  
14 the health, safety or welfare of a resident. The department may deny licensure to  
15 or revoke licensure for any person who conducted, maintained, operated or permitted  
16 to be maintained or operated a community-based residential facility for which  
17 licensure was revoked. The department, or its designee, shall make such inspections  
18 and investigations as are necessary to determine the conditions existing in each case  
19 and shall file written reports. In reviewing the report of a community-based  
20 residential facility that is required to be submitted under par. (c) ~~1.~~ 2m., the  
21 department shall consider all complaints filed under sub. (2) (f) since initial license  
22 issuance or since the last review, whichever is later, and the disposition of each. The  
23 department shall promulgate rules defining “fit and qualified” for the purposes of  
24 this subd. 1. b.

κ 25           **SECTION 8.** 50.03 (4) (c) 1. of the statutes is amended to read:

1 50.03 (4) (c) 1. A community-based residential facility license is valid until it  
 2 is revoked or <sup>strike</sup> ~~suspended~~ under this section s. 50.02 (3m) ~~(3)~~. (bm) ✓

3 2m. Every 24 months, on a schedule determined by the department, a  
 4 community-based residential facility licensee shall submit a biennial report in the  
 5 form and containing the information that the department requires, including  
 6 payment of the fees required under s. 50.037 (2) (a). If a complete biennial report is  
 7 not timely filed, the department shall issue a warning to the licensee. The  
 8 department may revoke a community-based residential facility license for failure to  
 9 timely and completely report within 60 days after the report date established under  
 10 the schedule determined by the department.

11 SECTION 9. 50.03 (4) (c) 2. of the statutes is renumbered 50.03 (4) (cm) 1. and  
 12 amended to read:

13 50.03 (4) (cm) 1. A nursing home license is valid until it is revoked or <sup>strike</sup> ~~suspended~~  
 14 under this section s. 50.02 (3m) ~~(3)~~. (bm) ✓

15 2. Every 12 months, on a schedule determined by the department, a nursing  
 16 home licensee shall submit a report in the form and containing the information that  
 17 the department requires, including payment of the fee required under s. 50.135 (2)  
 18 (a). If a complete report is not timely filed, the department shall issue a warning to  
 19 the licensee. The department may revoke a nursing home license for failure to timely  
 20 and completely report within 60 days after the report date established under the  
 21 schedule determined by the department.

22 SECTION 10. 50.03 (4) (c) 3. of the statutes is created to read:

23 50.03 (4) (c) 3. A community-based residential facility that is in substantial  
 24 noncompliance with a federal statute or regulation or with an applicable provision  
 25 of this chapter shall demonstrate that the community-based residential facility

, including by providing financial  
 or other information requested by  
 the department,

continues to be fit and qualified, as defined by the department by rule under par. (a) 1. a., to operate. The department shall promulgate rules defining "substantial noncompliance" for the purposes of this subdivision.

SECTION 11. 50.03 (4) (cm) 3. of the statutes is created to read:

50.03 (4) (cm) 3. A nursing home that is in substantial noncompliance with a federal statute or regulation or with an applicable provision of this chapter shall demonstrate that the nursing home continues to be fit and qualified, as defined by the department by rule under par. (a) 1. b., to operate. The department shall promulgate rules defining "substantial noncompliance" for the purposes of this subdivision.

*including by providing financial or other information requested by the department,*

SECTION 12. 50.03 (4m) of the statutes is repealed.

SECTION 13. 50.03 (5) of the statutes is repealed.

SECTION 14. 50.03 (5g) (title) of the statutes is renumbered 50.02 (3m) (title) and amended to read:

50.02 (3m) (title) SANCTIONS AND PENALTIES FOR COMMUNITY BASED RESIDENTIAL FACILITIES.

SECTION 15. 50.03 (5g) (a) of the statutes is repealed.

SECTION 16. 50.03 (5g) (b) of the statutes is renumbered 50.02 (3m) (a) and amended to read:

50.02 (3m) (a) ~~Except as provided in s. 50.04 (4) and (5), if~~ based on an investigation made by the department, the department provides to a community-based residential facility ~~and penalty~~ written notice of the grounds for a sanction, an explanation of the types of sanctions and penalties that the department may impose under this subsection and an explanation of the process for appealing a sanction

IF

any of the following entities

7

22

24

<sup>or penalty</sup> imposed under this subsection, the department may order any of the following <sup>applicable</sup> sanctions:

1. That a person stop conducting, maintaining or operating <sup>an</sup> ~~the~~ community-based residential facility <sup>entity</sup> if the community-based residential facility <sup>entity</sup> is without a valid license or probationary license in violation of sub. (1), ~~certification~~ <sup>or</sup> approval ~~or registration~~ or conditional license, ~~certification~~ <sup>or</sup> approval ~~or registration~~ <sup>under s. 50.01 (1d) (b), (e), or (f)</sup>

2. That, within 30 days after the date of the order <sup>an</sup> ~~under this subdivision~~ the community-based residential facility <sup>entity</sup> terminate the employment of any employed person who conducted, maintained, operated or permitted to be maintained or operated a community-based residential facility <sup>an</sup> ~~entity~~ for which licensure, ~~certification~~ <sup>or</sup> approval ~~or registration~~ or conditional licensure ~~certification~~ <sup>or</sup> approval ~~or registration~~ was revoked before issuance of the department's order. This ~~The order under this~~ subdivision includes employment of a person in any capacity, whether as an officer, director, agent, or employee of the community-based residential facility <sup>entity</sup> <sup>under s. 50.01 (1d) (b), (e), or (f)</sup>

3. That a licensee <sup>an</sup> ~~entity~~ stop violating any provision of licensure ~~certification~~ <sup>or</sup> approval ~~or registration~~ or conditional licensure ~~certification~~ <sup>or</sup> approval ~~or registration~~ applicable to a community-based residential facility under sub. (4) or (4m) <sup>the</sup> ~~entity~~ under this chapter or of rules relating to community-based residential facilities <sup>the</sup> ~~entity~~ promulgated by the department under sub. (4) or (4m) <sup>under s. 50.01 (1d) (b), (e), or (f)</sup> this chapter.

4. That a licensee <sup>an</sup> ~~entity~~ submit a plan of correction for violation of any provision of licensure ~~certification~~ <sup>or</sup> approval ~~or registration~~ or conditional licensure ~~certification~~ <sup>or</sup> approval ~~or registration~~ applicable to a community-based

1 residential facility under sub. (4) or (4m) the entity under this chapter or of a rule  
2 relating to community-based residential facilities the entity promulgated by the  
3 department under sub. (4) or (4m) this chapter.

4 5. That a licensee an entity implement and comply with a plan of correction  
5 previously submitted by the licensee entity and approved by the department.

6 6. That a licensee an entity implement and comply with a plan of correction for  
7 the entity that is developed by the department.

8 7. That a licensee an entity accept no additional residents or patients until all  
9 violations are corrected.

10 8. That a licensee an entity provide training in one or more specific areas for  
11 all of the licensee's entity's staff or for specific staff members.

12 SECTION 17. 50.03 (5g) (c) of the statutes ~~(S)~~ renumbered 50.02 (3m) (b) and  
13 50.02 (3m) (b) ~~intro., a. and c.,~~ 1. (intro.), a. and c., ~~and b.,~~ as renumbered, are amended to  
14 read:

15 50.02 (3m) (b) ~~(intro.)~~ If ~~Except as provided in s. 50.04 (4) and (5)~~ if the  
16 department provides to a community-based residential facility an entity written  
17 notice of the ~~sanction~~ penalty, the grounds for a the sanction or penalty, an  
18 explanation of the types of sanctions or penalties that the department may impose  
19 under this subsection, and an explanation of the process for appealing a sanction or

20 penalty imposed under this subsection, the department shall impose suspension of  
21 approval against a hospital that fails to comply with s. 165.40 (3) ~~and~~ and may

22 impose any of the following against a licensee an entity or other person who violates  
23 the applicable provisions of this section chapter or rules promulgated under the

24 applicable provisions of this section chapter or who fails to comply with an order  
25 issued under par. (b) (a) by the time specified in the order:

a forfeiture  
under s. 50.01 (d) (b), (d), (e), (g), or (h)  
against an entity under s. 50.01 (d) (a), (b), (e), or (f)

RESTORE TO PLAIN TEXT

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STRIKE

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applicable

1. and 2.

under s. 50.01 (d) (b), (e), or (f)

under s. 50.01 (d) (a), (b), or (e)

under s. 50.01 (d) (b)

(f)

under s. 50.01 (d) (a), (b), (d), (e), (g), or (h)

1.

(a)



strike

For a forfeiture <sup>specified</sup> under subd. 1., the department shall ~~impose~~ ~~assess~~ a

1 (intro.) A daily forfeiture amount ~~per violation~~ of not less than \$10 nor more  
2 than \$1,000 ~~\$5,000~~ \$2,000 for each violation, with each day of violation constituting a  
3 separate offense. All of the following apply to a forfeiture under this subdivision:

4 a. Within the limits specified in this subdivision, the department may, by rule,  
5 set daily forfeiture amounts and payment deadlines based on the size and type of  
6 ~~community-based residential facility of the entity and, for a community-based~~  
7 residential facility, the type of community-based residential facility, and the  
8 seriousness of the violation. The department may set daily forfeiture amounts that  
9 increase periodically within the statutory limits if there is continued failure to  
10 comply with an order issued under par. (b) (a).

11 c. ~~All forfeitures shall be paid~~ An entity assessed a forfeiture shall pay the  
12 forfeiture to the department within 10 days after receipt of notice of assessment or,  
13 if the forfeiture is contested under par. (f) (e), within 10 days after receipt of the final  
14 decision after exhaustion of administrative review, unless the final decision is  
15 appealed and the order is stayed by court order under s. 50.03 (11) sub. (3r). The  
16 department shall remit all forfeitures paid under this subdivision to the state  
17 treasurer for deposit in the school fund. (5g)

~~SECTION 18. 50.03 (c) 2. of the statutes is repealed.~~

18 ~~2. Suspension of licensure, certification, approval, or registration, or~~  
19 ~~conditional licensure, certification, approval, or registration for the~~  
20 ~~community-based residential facility entity for 14 days.~~  
21 ~~3. Revocation of licensure, certification, approval, or registration or of~~  
22 ~~conditional licensure, certification, approval, or registration as specified in pars. (d)~~  
23 ~~to (g) (c) to (f).~~

INSERT 12-23

24 SECTION 18. 50.03 (5g) (d) of the statutes is renumbered 50.02 (3m) (c) and  
25 amended to read:

1           50.02 (3m) (c) Under the procedure specified in par. (e) (d), the department  
2           shall revoke approval of a hospital that fails to comply with s. 165.40 (6) (a) 1. or 2.  
3           and may revoke a license, certification, approval, or registration or conditional  
4           license, certification, approval, or registration for a licensee an entity for any of the  
5           following reasons:

6           1. The department has imposed a sanction or penalty on the licensee entity  
7           under par. (e) (b) and the licensee entity continues to violate or resumes violation of  
8           a an applicable provision of licensure under sub. (4) or (4m), certification, approval,  
9           or registration or conditional licensure, certification, approval, or registration, a rule  
10          relating to the entity promulgated under this subchapter chapter or an order issued  
11          under par. (b) (a) that forms any part of the basis for the sanction or penalty.

12          2. The licensee entity or a person under the supervision of the licensee entity  
13          has substantially violated a provision of licensure, certification, approval, or  
14          registration or conditional licensure, certification, approval, or registration  
15          applicable to a ~~community-based residential facility~~ under sub. (4) or (4m) the entity,  
16          a rule relating to ~~community-based residential facilities~~ the entity promulgated  
17          under this subchapter chapter, or an order issued under par. (b) (a).

18          3. The licensee entity or a person under the supervision of the licensee entity  
19          has acted in relation to or has created a condition relating to the operation or  
20          maintenance of the ~~community-based residential facility~~ entity that directly  
21          threatens the health, safety, or welfare of a resident of ~~the community-based~~  
22          residential facility or patient of the entity.

23          4. The licensee entity or a person under the supervision of the licensee entity  
24          has repeatedly violated the same or similar provisions of licensure under sub. (4) or  
25          (4m), certification, approval, or registration or conditional licensure, certification,

1 approval, or registration applicable to the entity, rules relating to the entity  
2 promulgated under this subchapter chapter or orders issued under par. (b) (a).

3 SECTION 19. 50.03 (5g) (e) of the statutes is renumbered 50.02 (3m) (d) and  
4 amended to read:

5 50.02 (3m) (d) 1. The department ~~shall revoke approval for an hospital that fails~~  
6 ~~to comply with s. 165.40 (6) (a) 1. or 2.~~ may revoke a license for a licensee,  
7 certification, approval, or registration or conditional license, certification, approval,  
8 or registration of an entity for the reason specified in par. (d) (c) 1., 2., 3., or 4. if the  
9 department provides the licensee ~~(b)(1)(a)~~ with written notice of revocation, the  
10 grounds for the revocation and an explanation of the process for appealing the  
11 revocation, at least 30 days before the date of revocation. The department may  
12 revoke the license, certification, approval, or registration or conditional license,  
13 certification, approval, or registration only if the violation remains substantially  
14 uncorrected on the date of revocation or license expiration of the license,  
15 certification, approval, or registration or conditional license, certification, approval,  
16 or registration.

17 2. The department shall revoke approval for a hospital that fails to comply with  
18 s. 165.40 (6) (a) 1. or 2. and may revoke a license, certification, approval, or  
19 registration or conditional license, certification, approval, or registration for a  
20 licensee an entity for the reason specified in par. (d) (c) 2. or 3. immediately if the  
21 department provides the licensee ~~(b)(1)(a)~~ with written notice of revocation, the  
22 grounds for the revocation and an explanation of the process for appealing the  
23 revocation, at least 30 days before the date of revocation. The department may  
24 revoke the license, certification, approval, or registration or conditional license,  
25 certification, approval, or registration only if the violation remains substantially

26 3. The department may deny a license, certification, approval, or registration  
27 or conditional license, certification, approval, or registration for a licensee an entity

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1 whose license, certification, approval, or registration or conditional license,  
2 certification, approval, or registration was revoked under this paragraph.

3 ~~SECTION 20. 50.03 (5g) (f) of the statutes is repealed and renumbered 50.02 (3m)~~

INSECT  
15-3

4 **SECTION 21.** 50.03 (5g) (g) 1. and 3. of the statutes are renumbered 50.02 (3m)  
5 (f) 1. and 2. and amended to read:

6 50.02 (3m) (f) 1. Subject to s. 227.51 (3), revocation shall become effective on  
7 the date set by the department in the notice of revocation, ~~or~~ upon final action after  
8 hearing under ch. 227, or after court action if a stay is granted under sub. (11) (3r),  
9 whichever is later.

10 2. The department may extend the effective date of revocation of a license;  
11 certification, approval, or registration or conditional license, certification, approval,  
12 or registration in any case in order to permit orderly removal and relocation of  
13 residents or patients.

14 **SECTION 22.** 50.03 (5m) (a) 2. of the statutes is amended to read:

15 50.03 (5m) (a) 2. The department has ~~suspended or~~ <sup>striking</sup> revoked the existing license  
16 of the facility as provided under sub. (5) s. 50.02 (3m) ~~(11)~~ (bm) ✓

17 **SECTION 23.** 50.03 (5m) (a) 3. of the statutes is amended to read:

18 50.03 (5m) (a) 3. The department has initiated revocation procedures under  
19 sub. (5) and has determined that the lives, health, safety, or welfare of the resident  
20 cannot be adequately assured pending a full hearing on license revocation under sub.  
21 (5) s. 50.02 (3m) ~~(11)~~ ✓

22 **SECTION 24.** 50.03 (11) of the statutes is renumbered 50.02 (3r) and amended  
23 to read:

24 50.02 (3r) JUDICIAL REVIEW. (a) All administrative remedies shall be exhausted  
25 before an agency determination under this ~~subchapter shall be~~ chapter is subject to

1 judicial review. Final decisions after hearing shall be are subject to judicial review  
2 exclusively as provided in s. 227.52, except that an entity shall file any petition for  
3 review of department action under this chapter ~~shall be filed~~ within 15 days after  
4 receipt of notice of the final agency determination.

5 (b) The court may stay enforcement under s. 227.54 of the ~~department's~~  
6 agency's final decision if a showing is made that there is a substantial probability  
7 that the party seeking review will prevail on the merits and will suffer irreparable  
8 harm if a stay is not granted, and that the ~~facility~~ entity will meet the applicable  
9 requirements of this ~~subchapter~~ chapter and the rules promulgated under this  
10 ~~subchapter~~ chapter during ~~such the~~ stay. ~~Where~~ If a stay is granted, the court may  
11 impose such conditions on the granting of the stay as may be necessary to safeguard  
12 the lives, health, rights, safety, and welfare of residents or patients, and to assure  
13 compliance by the ~~facility~~ entity with the requirements of this ~~subchapter~~ chapter.

14 (d) The attorney general may delegate to the department the authority to  
15 represent the state in any action brought to challenge department ~~decisions~~ actions  
16 prior to exhaustion of administrative remedies and final disposition by the  
17 ~~department~~ agency.

18 **SECTION 25.** 50.03 (13) (c) of the statutes is amended to read:

19 50.03 (13) (c) *Outstanding violations.* Violations reported in departmental  
20 inspection reports prior to the transfer of ownership shall be corrected, with  
21 corrections verified by departmental survey, prior to the issuance of a full regular  
22 license to the transferee. The license granted to the transferee shall be subject to the  
23 plan of correction submitted by the previous owner and approved by the department  
24 and any conditions contained in a conditional license issued to the previous owner.  
25 In the case of a nursing home, if there are outstanding violations and no approved

1 plan of correction has been implemented, the department may issue a conditional  
2 license and plan of correction as provided in s. 50.04 (6) 50.02 (3g).

INSERT  
17-2

3 SECTION 26. 50.034 (8) of the statutes is repealed.

4 SECTION 27. 50.035 (11) ~~of~~ of the statutes is repealed.

5 SECTION 28. 50.035 (11) (b) of the statutes is repealed.

6 SECTION 29. 50.035 (11) (c) of the statutes is ~~renumbered 50.02 (3m) (e) and~~  
7 ~~amended to read:~~

8 ~~50.02 (3m) (e) A community-based residential facility An entity may contest~~  
9 ~~the suspension or revocation of a license, certification, approval, or registration or~~  
10 ~~conditional license, certification, approval, or registration or the imposition of a~~  
11 ~~sanction or penalty, including an assessment of a forfeiture, by sending, within 10~~  
12 ~~days after receipt of notice under par. (b) (d), a written request for a hearing under~~  
13 ~~s. 227.44 to the division of hearings and appeals created under s. 15.103 (1). The~~  
14 ~~administrator of the division may designate a hearing examiner to preside over the~~  
15 ~~case and recommend a decision to the administrator under s. 227.46. The decision~~  
16 ~~of the administrator of the division shall be the final administrative decision. The~~  
17 ~~division shall commence the hearing within 30 days after receipt of the request for~~  
18 ~~a hearing and shall issue a final decision within 15 days after the close of the hearing.~~  
19 ~~Proceedings before the division are governed by ch. 227. In any petition for judicial~~  
20 ~~review under sub. (3r) of a decision by the division, the party, other than the~~  
21 ~~petitioner, who was in the proceeding before the division shall be the named~~  
22 ~~respondent.~~

23 SECTION 30. 50.035 (11) (d) of the statutes is repealed.

24 SECTION 31. 50.035 (11) (e) of the statutes is repealed.

SECTION 32. RP; 50.04 (4) (d)

25 SECTION 32. 50.04 (4) (e) 3. of the statutes is amended to read: ✓

x x

1           50.04 (4) (e) 3. In any petition for judicial review under s. 50.02 (3r) of a decision  
2 by the division under subd. 2., the department, if not the petitioner who was in the  
3 proceeding before the division under subd. 1., shall be the named respondent.

4           **SECTION 33.** 50.04 (5) (e) of the statutes is amended to read:

5           50.04 (5) (e) *Forfeiture appeal hearing.* A nursing home may contest an  
6 assessment of forfeiture by sending, within 10 days after receipt of notice of a  
7 contested action, a written request for hearing under s. 227.44 to the division of  
8 hearings and appeals created under s. 15.103 (1). The administrator of the division  
9 may designate a hearing examiner to preside over the case and recommend a decision  
10 to the administrator under s. 227.46. The decision of the administrator of the  
11 division shall be the final administrative decision. The division shall commence the  
12 hearing within 30 days of receipt of the request for hearing and shall issue a final  
13 decision within 15 days after the close of the hearing. Proceedings before the division  
14 are governed by ch. 227. In any petition for judicial review under s. 50.02 (3r) of a  
15 decision by the division, the party, other than the petitioner, who was in the  
16 proceeding before the division shall be the named respondent.

17           **SECTION 34.** 50.04 (5) (f) of the statutes is amended to read:

18           50.04 (5) (f) *Forfeitures paid within 10 days.* All forfeitures shall be paid to the  
19 department within 10 days of receipt of notice of assessment or, if the forfeiture is  
20 contested under par. (e), within 10 days of receipt of the final decision after  
21 exhaustion of administrative review, unless the final decision is appealed and the  
22 order is stayed by court order under s. 50.03 (11) 50.02 (3r). The department shall  
23 remit all forfeitures paid to the state treasurer for deposit in the school fund.

24           **SECTION 35.** 50.04 (6) (title) of the statutes is renumbered 50.02 (3g) (title) and  
25 amended to read:

1           50.02 (3g) (title)    CONDITIONAL LICENSE, CERTIFICATION, APPROVAL, OR  
2    REGISTRATION.

3           **SECTION 36.** 50.04 (6) (a) of the statutes is renumbered 50.02 (3g) (a) (intro.)  
4    and amended to read:

5           50.02 (3g) (a) ~~Power of department.~~ (intro.) ~~In addition to the right to assess~~  
6    ~~forfeitures under sub. (5), the~~ The department may, in addition to assessing  
7    ~~forfeitures under sub. (3m) (b) issue a conditional license, certification, approval,~~  
8    ~~or registration, as applicable, to any nursing home if the department finds that either~~  
9    ~~a class "A" or class "B" violation, as defined in sub. (4), continues to exist in such~~  
10 ~~home. of the following, under the following conditions:~~

11           (b) ~~The issuance of a conditional license shall revoke, certification, approval,~~  
12 ~~or registration to an entity revokes any outstanding license held by the nursing~~  
13 ~~home. The nursing home may seek review of a decision to issue a conditional license~~  
14 ~~as provided under s. 50.03 (5), certification, approval, or registration held under this~~  
15 ~~chapter by the entity.~~

16           **SECTION 37.** 50.04 (6) (b) of the statutes is renumbered 50.02 (3g) (c) and  
17    amended to read:

18           50.02 (3g) (c) ~~Violation correction plan.~~ Prior to the issuance of a conditional  
19    ~~license, certification, approval, or registration,~~ the department shall establish a  
20    written plan of correction. The plan shall specify the violations ~~which~~ that prevent  
21    full licensure, ~~certification, approval, or registration~~ and shall establish a time  
22    schedule for correction of the deficiencies. Retention of the conditional license,  
23    ~~certification, approval, or registration by an entity~~ shall be conditional on the entity's  
24    meeting the requirements of the plan of correction.



1           **SECTION 38.** 50.04 (6) (c) of the statutes is renumbered 50.02 (3g) (d) and  
2 amended to read:

3           50.02 (3g) (d) ~~Notice. Written~~ The department shall send to an entity written  
4 notice of the decision to issue a conditional license shall be sent to the facility,  
5 certification, approval, or registration, together with the proposed plan of correction.  
6 The notice shall inform the ~~facility~~ entity of its right to a case conference under par.  
7 (e) prior to issuance of the conditional license under par. (d), certification, approval,  
8 or registration and of its right under par. (f) to a full hearing under par. (e).

9           **SECTION 39.** 50.04 (6) (d) of the statutes is renumbered 50.02 (3g) (e) and  
10 amended to read:

11           50.02 (3g) (e) ~~Case conference.~~ If the ~~facility~~ entity desires to have a case  
12 conference it shall, within 4 working days of receipt of the notice under par. (e) ~~(d),~~  
13 send a written request for a case conference to the department. The department  
14 shall, within 4 working days from the receipt of the request, hold a case conference  
15 in the county in which the ~~facility~~ entity is located. Following this conference the  
16 department may affirm or overrule its previous decision, or modify the terms of the  
17 conditional license, certification, approval, or registration and plan of correction.  
18 ~~The conditional license may be issued~~ department may issue the conditional license,  
19 certification, approval, or registration after the case conference, or after the time for  
20 requesting a case conference has expired, prior to any further hearing.

21           **SECTION 40.** 50.04 (6) (e) of the statutes is renumbered 50.02 (3g) (f) and  
22 amended to read:

23           50.02 (3g) (f) ~~Hearing.~~ If after the case conference the licensee entity desires  
24 to contest the basis for issuance of a conditional license, certification, approval, or  
25 registration or the terms of the license conditional license, certification, approval, or

1 ~~registration~~ or plan of correction, the licensee shall send a written request for  
2 hearing to the department within 4 working days after issuance of the conditional  
3 license. The department shall hold the hearing within 30 days of receipt of such  
4 notice and shall immediately notify the licensee of the date and location of the  
5 hearing entity is entitled to a hearing under sub. (3m) (e).

6 SECTION 41. 50.04 (6) (f) of the statutes is renumbered 50.02 (3g) (g) and  
7 amended to read:

8 50.02 (3g) (g) *Term; inspection.* ~~A conditional license shall be issued~~ The  
9 department may issue a conditional license, certification, approval, or registration  
10 for a period specified by the department, but in no event for more than one year 12  
11 months. The department shall periodically inspect any nursing home entity that is  
12 operating under a conditional license, certification, approval, or registration. If the  
13 department finds substantial failure by the nursing home entity to follow the plan  
14 of correction, the ~~conditional license may be revoked~~ department may revoke the  
15 conditional license, certification, approval, or registration as provided under s. 50.03  
16 (5) sub. (3m) ~~(f)~~. <sup>(bm) ✓</sup> The licensee entity is entitled to a hearing under sub. (3m) (e) on  
17 the revocation ~~under s. 50.03 (5)~~, but the department may rely on facts found in a  
18 hearing under par. (e) (f) as grounds for revocation.

19 SECTION 42. 50.04 (6) (g) of the statutes is renumbered 50.02 (3g) (h) and  
20 amended to read:

21 50.02 (3g) (h) *Expiration.* If the department determines that a the conditional  
22 license, certification, approval, or registration of an entity shall expire without  
23 renewal or replacement of the conditional license, certification, approval, or  
24 registration by a regular license, certification, approval, or registration, the  
25 department shall so notify the licensee entity at least 30 days prior to expiration of

1 the conditional license, certification, approval, or registration. The notice shall  
 2 ~~comply with notice requirements under s. 50.03 (5) be written, shall state the~~  
 3 grounds for the expiration without renewal or replacement and shall explain the  
 4 process for appealing the expiration without renewal or replacement. The licensee  
 5 entity is entitled to a hearing under s. 50.03 (5) sub. (3m) (e) prior to expiration of the  
 6 license conditional license, certification, approval, or registration.

7 **SECTION 43.** 50.05 (2) (c) of the statutes is amended to read:

8 50.05 (2) (c) The department has initiated revocation procedures under s. 50.03  
 9 (5) 50.02 (3m) (d) <sup>bm</sup> and has determined that the lives, health, safety, or welfare of the  
 10 residents cannot be adequately assured pending a full hearing on license revocation.

11 **SECTION 44.** 50.053 of the statutes is renumbered 50.02 (3m) (em) and amended  
 12 to read:

13 50.02 (3m) (em) ~~Case-conference.~~ The department may hold a case conference  
 14 with the parties to any contested action under this subchapter chapter to resolve any  
 15 or all issues prior to formal hearing. Unless any party to the contested case objects,  
 16 the department may delay the commencement of the formal hearing in order to hold  
 17 the case conference.

18 **SECTION 45.** 50.09 (6) (d) of the statutes is amended to read:

19 50.09 (6) (d) The facility shall attach a statement, which summarizes  
 20 complaints or allegations of violations of rights established under this section, to the  
 21 report required under s. 50.03 (4) (c) ~~1. or 2.~~ 2m. or (cm) 2. The statement shall  
 22 contain the date of the complaint or allegation, the name of the persons involved, the  
 23 disposition of the matter and the date of disposition. The department shall consider  
 24 the statement in reviewing the report.

25 **SECTION 46.** 50.14 (6) of the statutes is repealed.

LPS: make it look like this please

withhold, <sup>strike comma</sup> suspend <sup>plain</sup> or <sup>score comma</sup> under s. 50.02 (3m), (bm), revoke

SECTION 47. 50.35 of the statutes is amended to read:

**50.35 Application and approval.** Application for approval to maintain a hospital shall be made to the department on forms provided by the department. On receipt of an application, the department shall, except as provided in s. 50.498, issue a certificate of approval if the applicant and hospital facilities meet the requirements established by the department. Except as provided in s. 50.498, this approval shall be in effect until, for just cause and in the manner herein prescribed, it is <sup>strike</sup> suspended

<sup>strike</sup> or revoked. The certificate of approval may be issued only for the premises and persons or governmental unit named in the application and is not transferable or assignable. The department shall withhold <sup>(bm)</sup> or, under s. 50.02 (3m) ~~suspend or~~ revoke approval for a failure to comply with s. 165.40 (6) (a) 1. or 2., but, except as provided in s. 50.498, otherwise may not withhold <sup>strike</sup> or, under s. 50.02 (3m) ~~suspend~~ or revoke approval unless for a substantial failure to comply with ss. 50.32 to 50.39 or the rules and standards adopted by the department after giving a reasonable notice, a fair hearing and a reasonable opportunity to comply. Failure by a hospital to comply with s. 50.36 (3m) shall be considered to be a substantial failure to comply under this section.

SECTION 48. 50.37 (1) of the statutes is amended to read:

50.37 (1) ~~Suspended or revoked~~ the hospital's approval under s. 50.35 50.02

(3m) ~~(b)~~

(bm)

Revoked

SECTION 49. 50.38 of the statutes is repealed.

SECTION 50. 50.49 (7) of the statutes is repealed.

~~SECTION 51. 50.49 (10) of the statutes is repealed.~~

SECTION 52. 50.49 (11) of the statutes is created to read?

INSERT 23-21

INSERT

23-23

1           50.49 (11) CLOSING OF A HOME HEALTH AGENCY. If a home health agency is closing,  
2 or intends to close, all of the following apply:

3           (a) The department may provide, direct, or arrange for planning, placement,  
4 and implementation services in order to minimize the trauma associated with the  
5 transfer of service delivery to patients and to ensure orderly service provider  
6 transfer.

7           (b) The county departments of the county in which the home health agency is  
8 located that are responsible for providing services under s. 46.215 (1) (L), 46.22 (1)

9 (b) 1. c., 51.42, or 51.437 shall participate in the development and implementation  
10 of individual patient service transfer plans. Any county department of another  
11 county shall participate in the development and implementation of individual  
12 patient service transfer plans in place of the county departments of the county in  
13 which the home health agency is located, if the county department accepts  
14 responsibility for the patient or is delegated responsibility for the patient by the  
15 department or by a court.

16           (c) The home health agency shall:

17           1. Provide at least 30 days' written notice prior to closing to each patient who  
18 is to be transferred to another service provider, to the patient's guardian, if any, and  
19 to a member of the patient's family, if practicable, unless the patient requests that  
20 notice to the family be withheld.

21           2. Attempt to resolve complaints from patients under this section.

22           3. Identify and, to the greatest extent practicable, attempt to secure an  
23 appropriate alternate service provider for each patient to be transferred.

24           4. Consult the patient's physician on the effect on the resident's health of the  
25 proposed closing.

1           5. Hold a planning conference at which an individual patient transfer plan will  
2 be developed with the patient, with the patient's guardian, if any, and with a member  
3 of the patient's family, if practicable, unless the patient requests that a family  
4 member not be present.

5           6. Implement the individual patient transfer plan developed under subd. 5.

6           7. Notify the department of its intention to transfer patients to alternate  
7 service providers. The notice shall state the facts requiring the proposed transfer of  
8 patients and the proposed date of closing.

9           8. At the time the home health agency notifies the department under subd. 7.,  
10 submit to the department a preliminary plan that includes:

11           a. The proposed timetable for planning and implementation of transfers and  
12 the resources, policies, and procedures that the home health agency will provide or  
13 arrange in order to plan and implement the transfers.

14           b. A list of the patients to be transferred and their current levels of care and  
15 a brief description of any special needs or conditions.

16           c. An indication of which patients have guardians and the names and addresses  
17 of the guardians.

18           d. A list of which patients have been protectively placed under ch. 55.

19           e. A list of the patients whom the home health agency believes to be  
20 incompetent.

21           (d) The department shall notify the home health agency within 10 days after  
22 receiving the preliminary plan under par. (c) 8., if it disapproves the plan. If the  
23 department does not notify the home health agency of disapproval, the plan is  
24 deemed approved. If the department disapproves the preliminary plan it shall,  
25 within 10 days of notifying the home health agency, begin working with the home

1 health agency to modify the disapproved plan. No patients may be relocated until  
2 the department approves the preliminary plan or until a modified plan is agreed  
3 upon. If a plan is not approved or agreed upon within 30 days of receipt of the notice  
4 of relocation, the department may impose a plan that the home health agency shall  
5 carry out.

6 (e) Upon approval of, agreement to, or imposition of a plan for service transfer,  
7 the home health agency shall establish a date of closing and shall notify the  
8 department of the date. The date may not be earlier than 90 days from the date of  
9 approval, agreement, or imposition if 5 to 50 patients will require service transfer,  
10 or 120 days from the date of approval, agreement, or imposition if more than 50  
11 patients will require service transfer.

12 ~~SECTION 53. 50.498 (1)(c) of the statutes is repealed.~~

13 ~~INSERT 26-12~~  
SECTION 54. 50.498 (1m) of the statutes is amended to read:

14 50.498 (1m) If an individual who applies for a certificate of approval, license  
15 or provisional license or a license as specified under sub. (1) does not have a social  
16 security number, the individual, as a condition of obtaining the certificate of  
17 approval, license or provisional or the license, shall submit a statement made or  
18 subscribed under oath or affirmation to the department that the applicant does not  
19 have a social security number. The form of the statement shall be prescribed by the  
20 department of workforce development. A certificate of approval, license or  
21 provisional or a license issued in reliance upon a false statement submitted under  
22 this subsection is invalid.

23 SECTION 55. 50.498 (3) of the statutes is amended to read:

24 50.498 (3) Except as provided in sub. (1m), the department shall deny an  
25 application for the issuance of a certificate of approval, license or provisional or a

1 license specified in sub. (1) if the applicant does not provide the information specified  
2 in sub. (1). notwithstanding s. 50.02 (3m) (bm), ✓

x 3 SECTION 56. 50.498 (4) of the statutes is amended to read:

4 50.498 (4) The department shall deny an application for the issuance of a  
5 certificate of approval, ~~license or provisional or a~~ license specified in sub. (1) or shall  
6 revoke a certificate of approval, ~~license or provisional or a~~ license specified in sub.  
7 (1), if the department of revenue certifies under s. 73.0301 that the applicant for or  
8 holder of the certificate of approval, ~~license or provisional or the~~ license is liable for  
9 delinquent taxes.

INSERT 27-9

r 10 SECTION 57. 50.51 (2) (b) of the statutes is amended to read:

11 50.51 (2) (b) Minimum requirements for issuance of a ~~provisional license or a~~  
12 regular license to rural medical centers.

x 13 SECTION 58. 50.52 (2) (intro.) of the statutes is amended to read:

14 50.52 (2) (intro.) The department shall issue a ~~provisional license or a regular~~  
15 license as a rural medical center to an applicant if all of the following are first done:

x 16 SECTION 59. 50.52 (4) of the statutes is amended to read:

17 50.52 (4) A regular license issued to a rural medical center is valid until it is  
18 ~~suspended or revoked. A provisional license issued to a rural medical center is valid~~  
19 ~~for 6 months from the date of issuance.~~

Strike  
↓

x 20 SECTION 60. 50.55 (1) of the statutes is repealed.

x 21 SECTION 61. 50.55 (2) (title) of the statutes is repealed and recreated to read:

22 50.55 (2) (title) PENALTY

x 23 SECTION 62. 50.925 of the statutes is amended to read:

24 50.925 Use of name or advertising prohibited. No entity that is not a  
25 hospice licensed or conditionally licensed under this subchapter or an applicant for



1 a license or a provisional license under this subchapter may designate itself as a  
2 "hospice" or use the word "hospice" to represent or tend to represent the entity as a  
3 hospice or services provided by the entity as services provided by a hospice.

x 4 SECTION 63. 50.93 (1) (intro.) of the statutes is amended to read:

5 50.93 (1) APPLICATION. (intro.) The application for a license or for a provisional  
6 license shall:

*, including by providing financial or other information requested by the department,*

7 ~~SECTION 64. 50.93 (3) of the statutes is repealed.~~

INSERT 28-7

x 8 SECTION 65. 50.93 (3g) of the statutes is created to read:

9 50.93 (3g) SUBSTANTIAL NONCOMPLIANCE. A hospice that is in substantial  
10 noncompliance, as defined by the department by rule under s. 50.95 (7), with a  
11 federal statute or regulation or with an applicable provision of this chapter shall  
12 demonstrate that the hospice continues to be fit and qualified, as defined by the  
13 department by rule under s. 50.95 (5), to operate.

x 14 SECTION 66. 50.93 (4) of the statutes is repealed and recreated to read:

15 50.93 (4) EFFECT OF LICENSE INVALIDITY. No state or federal funds passing  
16 through the state treasury may be paid to a hospice that does not have a valid license  
17 issued under this section.

x 18 SECTION 67. 50.95 (7) of the statutes is created to read:

19 50.95 (7) The definition of "substantial noncompliance" for the purposes of s.  
20 50.93 (3g).

*(title) and (1) are*

x 21 SECTION 68. 50.98 of the statutes ~~is~~ repealed.

INSERT 28-21

x 22 SECTION 69. 51.032 (1) (b) of the statutes is amended to read:

23 51.032 (1) (b) A certification issued under s. 51.04 (2).

x 24 SECTION 70. 51.032 (1) (e) of the statutes is amended to read:

25 51.032 (1) (e) An approval issued under s. ~~51.45 (8)~~ 51.04 (1).

INSERT 28-25

a medical assistance recipient under  
s. 49.46 (2) (b) 6. f. or to

SECTION 71. 51.04 of the statutes is repealed and recreated to read:

**51.04 Treatment facilities. (2) CERTIFICATION.** Except as provided in s. 51.032, an approved treatment facility may apply to the department for certification of the facility for the receipt of funds for services provided as a benefit to a community aids funding recipient under s. 51.423 (2) or provided as mandated coverage under s. 632.89. The department shall annually charge a fee for each certification.

**(3) CONDITIONAL APPROVAL.** (a) The department may, in addition to assessing forfeitures under sub. (4) <sup>(a) ✓</sup> ~~(b)~~, issue a conditional approval to any treatment facility if the department finds that a violation by the treatment facility of an applicable provision of this chapter or of a rule promulgated under an applicable provision of this chapter continues to exist.

(b) The issuance of a conditional approval to a treatment facility revokes any outstanding approval held under this section by the treatment facility.

(c) Prior to the issuance of a conditional approval, the department shall establish a written plan of correction. The plan shall specify the violations that prevent full approval and shall establish a time schedule for correction of the deficiencies. Retention of the conditional approval by a treatment facility shall be conditional on the treatment facility's meeting the requirements of the plan of correction.

(d) The department shall send to a treatment facility written notice of the decision to issue a conditional approval, together with the proposed plan of correction. The notice shall inform the treatment facility of its right to a case conference prior to issuance of the conditional approval and of its right under par. (f) to a hearing.

1 (e) If the treatment facility desires to have a case conference it shall, within 4  
 2 working days of receipt of the notice under par. (d), send a written request for a case  
 3 conference to the department. The department shall, within 4 working days from the  
 4 receipt of the request, hold a case conference in the county in which the treatment  
 5 facility is located. Following this conference the department may affirm or overrule  
 6 its previous decision, or modify the terms of the conditional approval and plan of  
 7 correction. The department may issue the conditional approval after the case  
 8 conference, or after the time for requesting a case conference has expired, prior to any  
 9 further hearing.

10 (f) If after the case conference the treatment facility desires to contest the basis  
 11 for issuance of a conditional approval or the terms of the conditional approval or plan  
 12 of correction, the treatment facility is entitled to a hearing <sup>as specified</sup> under sub. (4) <sup>(d)</sup>.

13 (g) The department may issue a conditional approval for a period specified by  
 14 the department, but in no event for more than 12 months. The department shall  
 15 periodically inspect any treatment facility that is operating under a conditional  
 16 approval. If the department finds substantial failure by the treatment facility to  
 17 follow the plan of correction, the department may revoke the conditional approval as  
 18 provided under sub. (4) <sup>(b)</sup>. The treatment facility is entitled to a hearing <sup>as specified</sup> under sub.  
 19 (4) <sup>(d)</sup> on the revocation, but the department may rely on facts found in a hearing  
 20 under par. <sup>(d)</sup> as grounds for revocation.

21 (h) If the department determines that the conditional approval of a treatment  
 22 facility shall expire without renewal or replacement of the conditional approval by  
 23 an approval under sub. (1), the department shall so notify the treatment facility at  
 24 least 30 days prior to expiration of the conditional approval. The notice shall be  
 25 written, shall state the grounds for the expiration without renewal or replacement,

*as specified*

1 and shall explain the process for appealing the expiration without renewal or  
2 replacement. The treatment facility is entitled to a hearing under sub. (4) (a) prior  
3 to expiration of the conditional approval.

4 (4) SANCTIONS AND PENALTIES. (a) If, based on an investigation made by the

5 department, the department provides to a treatment facility written notice of the  
6 grounds for a sanction, an explanation of the types of sanctions that the department  
7 may impose under this subsection, and an explanation of the process for appealing  
8 a sanction imposed under this subsection, the department may order any of the  
9 following sanctions:

10 1. That a person stop conducting, maintaining, or operating the treatment  
11 facility if the treatment facility is without a valid approval.

12 2. That, within 30 days after the date of the order, the treatment facility  
13 terminate the employment of any employed person who conducted, maintained,  
14 operated, or permitted to be maintained or operated a treatment facility for which  
15 approval was revoked before issuance of the department's order. The order under  
16 this subdivision includes employment of a person in any capacity, whether as an  
17 officer, director, agent, or employee of the treatment facility.

18 3. That a treatment facility stop violating any provision of approval applicable  
19 to a treatment facility under this chapter or of rules relating to the treatment facility  
20 promulgated by the department under this chapter.

21 4. That a treatment facility submit a plan of correction for violation of any  
22 provision of approval applicable to the treatment facility under this chapter or of a  
23 rule relating to the treatment facility promulgated by the department under this  
24 chapter.

1 5. That a treatment facility implement and comply with a plan of correction  
2 previously submitted by the treatment facility and approved by the department.

3 6. That a treatment facility implement and comply with a plan of correction for  
4 the treatment facility that is developed by the department.

5 7. That a treatment facility accept no additional patients until all violations are  
6 corrected.

7 8. That a treatment facility provide training in one or more specific areas for  
8 all of the treatment facility's staff or for specific staff members.

9 <sup>a</sup> (a) If the department provides to a treatment facility written notice of the  
10 sanction or penalty, the grounds for the sanction or penalty, an explanation of the  
11 types of sanctions or penalties that the department may impose under this  
12 subsection, and an explanation of the process for appealing a sanction or penalty  
13 imposed under this subsection, the department may impose any of the following  
14 against a treatment facility or other person who violates the applicable provisions  
15 of this chapter or rules promulgated under the applicable provisions of this chapter  
16 or who fails to comply with an order issued under par. (a) by the time specified in the

17 ~~order.~~ <sup>\$2,000</sup>  
18 1. A daily forfeiture amount per violation of not less than \$10 nor more than  
19 ~~\$5,000~~ for each violation, with each day of violation constituting a separate offense.

20 All of the following apply to a forfeiture under this subdivision:

21 a. Within the limits specified in this subdivision, the department may, by rule,  
22 set daily forfeiture amounts and payment deadlines based on the size of the  
23 treatment facility, the type of the treatment facility, and the seriousness of the  
24 violation. ~~The department may set daily forfeiture amounts that increase,~~

1 periodically within the statutory limits if there is continued failure to comply with  
2 an order issued under par. (a).

3 b. The department may directly assess a forfeiture imposed under this  
4 subdivision by specifying the amount of that forfeiture in the notice provided under  
5 this paragraph.

6 c. A treatment facility assessed a forfeiture shall pay the forfeiture to the  
7 department within 10 days after receipt of notice of assessment or, if the forfeiture  
8 is contested under par. (a), within 10 days after receipt of the final decision after  
9 exhaustion of administrative review, unless the final decision is appealed and the  
10 order is stayed by court order under sub. (5). The department shall remit all  
11 forfeitures paid under this subdivision to the state treasurer for deposit in the school  
12 fund.

13 d. The attorney general may bring an action in the name of the state to collect  
14 any forfeiture imposed under this subdivision if the forfeiture has not been paid  
15 following the exhaustion of all administrative and judicial reviews. The only issue  
16 to be contested in any such action shall be whether the forfeiture has been paid.

17 2. Suspension of approval for the treatment facility ~~for 14 days~~

18 3. Revocation of approval or of conditional approval as specified in pars. (a) to

19 (e).

20 (a) Under the procedure specified in par. (a), the department may revoke an  
21 approval for a treatment facility for any of the following reasons:

22 1. The department has imposed a sanction or penalty on the treatment facility  
23 under par. (a) and the treatment facility continues to violate or resumes violation of  
24 an applicable provision of approval or of conditional approval, a rule relating to the

① treatment facility promulgated under this chapter, ~~or an order issued under par. (a)~~

② ~~that forms any part of the basis for the sanction or penalty.~~

3 2. The treatment facility or a person under the supervision of the treatment  
4 facility has substantially violated a provision of approval applicable to the treatment

⑤ facility, <sup>(b)</sup> a rule relating to the treatment facility promulgated under this chapter, ~~or~~

⑥ ~~an order issued under par. (a).~~

7 3. The treatment facility or a person under the supervision of the treatment  
8 facility has acted in relation to or has created a condition relating to the operation  
9 or maintenance of the treatment facility that directly threatens the health, safety,  
10 or welfare of a patient of the treatment facility.

11 4. The treatment facility or a person under the supervision of the treatment  
12 facility has repeatedly violated the same or similar provisions of approval or  
13 conditional approval applicable to the treatment facility, <sup>(b)</sup> rules relating to the

⑭ treatment facility promulgated under this chapter, ~~or orders issued under par. (a).~~

⑮ <sup>(c)</sup> 1. The department may revoke an approval or conditional approval for a  
⑯ treatment facility for the reason specified in par. <sup>(b)</sup> 1., 2., 3., or 4. if the department  
17 provides the treatment facility with written notice of revocation, the grounds for the  
18 revocation, and an explanation of the process for appealing the revocation, at least  
19 30 days before the date of revocation. The department may revoke the approval or  
20 conditional approval only if the violation remains substantially uncorrected on the  
21 date of revocation or expiration of the approval or conditional approval.

22 2. The department may revoke an approval or conditional approval for a  
⑳ treatment facility for the reason specified in par. <sup>(b)</sup> 2. or 3. immediately if the  
24 department provides the treatment facility with written notice of revocation, the

*(d) of a*

*desires to*

1 grounds for the revocation, and an explanation of the process for appealing the  
2 revocation.

3 3. The department may deny an approval or conditional approval for treatment  
4 facility whose approval or conditional approval was revoked under this paragraph.

5 ~~7514~~ treatment facility ~~may~~ contest the suspension or revocation of an approval  
6 or conditional approval or the imposition of a sanction or penalty, including an  
7 assessment of a forfeiture ~~assessment~~, within 10 days after receipt of notice under *shall*  
8 par. (d), *(a)* a written request for a hearing under s. 227.44 *notify the department in writing of its*  
9 ~~and appeals created under s. 15.103(10).~~ *to the division of hearings*

10 The administrator of the division may  
11 designate a hearing examiner to preside over the case and recommend a decision to  
12 the administrator under s. 227.46. The decision of the administrator of the division  
13 shall be the final administrative decision. *department* The ~~division~~ shall ~~commence the hearing~~  
*hold a prehearing conference*

14 within 30 days after receipt of the ~~request for a hearing~~ and shall issue a final  
15 decision within 15 days after the close of the hearing. Proceedings before the division  
16 are governed by c. 227. In any petition for judicial review under sub. (5) of a decision  
17 by the division, the party, other than the petitioner, who was in the proceeding before  
18 the division shall be the named respondent. *notice and shall send notice to the treatment facility of a hearing as provided under s. 227.44 (2)*

18 *(e)* 1. Subject to s. 227.51 (3), revocation shall become effective on the date set  
19 by the department in the notice of revocation, upon final action after hearing under  
20 ch. 227, or after court action if a stay is granted under sub. (5), whichever is later.

21 2. The department may extend the effective date of revocation of an approval  
22 or a conditional approval in any case in order to permit orderly removal and  
23 relocation of patients.

24 (5) JUDICIAL REVIEW. (a) All administrative remedies shall be exhausted before  
25 an agency determination under this chapter is subject to judicial review. Final



1 decisions after hearing are subject to judicial review exclusively as provided in s.  
2 227.52, except that a treatment facility shall file any petition for review of  
3 department action under this chapter within 15 days after receipt of notice of the  
4 final agency determination.

5 (b) The court may stay enforcement under s. 227.54 of the agency's final  
6 decision if a showing is made that there is a substantial probability that the party  
7 seeking review will prevail on the merits and will suffer irreparable harm if a stay  
8 is not granted, and that the treatment facility will meet the applicable requirements  
9 of this chapter and the rules promulgated under this chapter during the stay. If a  
10 stay is granted, the court may impose such conditions on the granting of the stay as  
11 may be necessary to safeguard the lives, health, rights, safety, and welfare of patients  
12 and to assure compliance by the treatment facility with the requirements of this  
13 chapter.

14 (c) The attorney general may delegate to the department the authority to  
15 represent the state in any action brought to challenge department actions prior to  
16 exhaustion of administrative remedies and final disposition by the agency.

17 **SECTION 72.** 51.08 of the statutes is amended to read:

18 **51.08 Milwaukee County Mental Health Complex.** Any county having a  
19 population of 500,000 or more may, pursuant to s. 46.17, establish and maintain a  
20 county mental health complex. The county mental health complex shall be a hospital  
21 devoted to the detention and care of drug addicts, alcoholics, chronic patients, and  
22 mentally ill persons whose mental illness is acute. ~~Such~~ The hospital shall be  
23 governed pursuant to under s. 46.21. Treatment of alcoholics at the county mental  
24 health complex is subject to approval by the department under s. ~~51.45 (8)~~ 51.04 (1).

1 The county mental health complex established pursuant to under this section is  
2 subject to rules promulgated by the department concerning hospital standards.

3 **SECTION 73.** 51.09 of the statutes is amended to read:

4 **51.09 County hospitals.** Any county having a population of less than 500,000  
5 may establish a hospital or facilities for the detention and care of mentally ill  
6 persons, alcoholics, and drug addicts; and in connection therewith a hospital or  
7 facility for the care of eases persons afflicted with pulmonary tuberculosis. County  
8 hospitals established pursuant to under this section are subject to rules promulgated  
9 by the department concerning hospital standards, including standards for alcoholic  
10 treatment facilities under s. ~~51.45 (8)~~ 51.04 (1).

11 **SECTION 74.** 51.45 (2) (b) of the statutes is amended to read:

12 51.45 (2) (b) "Approved private treatment facility" means a private agency  
13 meeting the standards ~~prescribed in sub. (8) (a) of,~~ and approved under sub. (8) (e),  
14 s. 51.04 (1).

15 **SECTION 75.** 51.45 (2) (c) of the statutes is amended to read:

16 51.45 (2) (c) "Approved public treatment facility" means a treatment agency  
17 operating under the direction and control of the department or providing treatment  
18 under this section through a contract with the department under sub. (7) (g) or with  
19 the county department under s. 51.42 (3) (ar) 2., and meeting the standards  
20 ~~prescribed in sub. (8) (a) of,~~ and approved under sub. (8) (e), s. 51.04 (1).

21 **SECTION 76.** 51.45 (8) (title) of the statutes is renumbered 51.04 (1) (title) and  
22 amended to read:

23 51.04 (1) (title) ~~STANDARDS FOR PUBLIC AND PRIVATE TREATMENT FACILITIES;~~  
24 ~~ENFORCEMENT PROCEDURES APPROVAL.~~

INSERT 37-10

1           **SECTION 77.** 51.45 (8) (a) of the statutes is renumbered 51.04 (1) (a) and  
2 amended to read:

3           51.04 (1) (a) The department shall establish minimum standards for approved  
4 ~~treatment facilities that must be met for a treatment facility to be approved as a~~  
5 ~~public or private treatment facility~~ approval, except as provided in s. 51.032, of public  
6 and private treatment facilities and ~~fix~~ shall specify the fees to be charged by the  
7 department for the required inspections. The standards may concern only the health  
8 standards to be met and standards of treatment to be afforded patients and shall  
9 distinguish between facilities rendering different modes of treatment. In setting  
10 standards, the department shall consider the residents' needs and abilities, the  
11 services to be provided by the facility, and the relationship between the physical  
12 structure and the objectives of the program. Nothing in this subsection ~~shall~~ may  
13 be construed to prevent county departments from establishing reasonable higher  
14 standards.

15           **SECTION 78.** 51.45 (8) (b) of the statutes is renumbered 51.04 (1) (b).

16           **SECTION 79.** 51.45 (8) (c) of the statutes is renumbered 51.04 (1) (c) and  
17 amended to read:

18           51.04 (1) (c) ~~Approval of a~~ No treatment facility must be secured that is not  
19 approved under this section before ~~application~~ subsection may apply for a  
20 grant-in-aid for such facility under s. 51.423 or ~~before treatment in any facility is~~  
21 ~~rendered~~ render treatment to patients.

22           **SECTION 80.** 51.45 (8) (d) of the statutes is renumbered 51.04 (1) (d) and  
23 amended to read:

24           51.04 (1) (d) ~~Each~~ An approved public and private treatment facility shall file  
25 with the department on request, data, statistics, schedules and information the

50.93(3)

1 department reasonably requires, including any data or information specified under  
2 s. 46.973 (2m). ~~An approved public or private~~ The approval of a treatment facility  
3 that without good cause fails to furnish any data, statistics, schedules or information  
4 as requested, or files fraudulent returns thereof, shall be removed from the list of  
5 approved treatment facilities, is subject to revocation.

SECTION 81. 51.45 (8) (e) of the statutes is repealed.

SECTION 82. 51.45 (8) (f) of the statutes is repealed.

SECTION 83. 73.0301 (1) (d) 3. of the statutes is amended to read:

73.0301 (1) (d) 3. A license, certificate of approval, ~~provisional license,~~  
~~conditional license,~~ certification, certification card, registration, permit, training  
permit or, approval, or conditional license, certification, approval, or registration  
specified in s. 50.02 (3g), 50.35, 50.49 (6) (a) or (10), 51.038, 51.04 (1), (2), or (3), 51.42  
(7) (b) 11., 51.421 (3) (a), ~~51.45 (8),~~ 146.40 (3) or (3m), 146.50 (5) (a) or (b), (6g) (a), (7)  
or (8) (a) or (f), 250.05 (5), 252.23 (2), 252.24 (2), 254.176, 254.20 (3), 255.08 (2) (a) or  
343.305 (6) (a) or a permit for operation of a campground specified in s. 254.47 (1).

probationary

RESTORE  
TO PLAIN  
TEXT

SECTION 84. 301.031 (2r) (a) 3. of the statutes is amended to read:

301.031 (2r) (a) 3. Is for the treatment of alcoholics in treatment facilities  
which have not been approved by the department of health and family services in  
accordance with s. 51.45 (8) 51.04 (1) or which have not been conditionally approved  
by the department of health and family services in accordance with s. 51.04 (3).

SECTION 85. 343.06 (1) (d) of the statutes is amended to read:

343.06 (1) (d) To any person whose dependence on alcohol has attained such  
a degree that it interferes with his or her physical or mental health or social or  
economic functioning, or who is addicted to the use of controlled substances or  
controlled substance analogs, except that the secretary may issue a license if the

INSERT 39-15

1 person submits to an examination, evaluation or treatment in a treatment facility  
2 meeting the standards prescribed in s. 51.45 (8) (a) 51.04 (1), as directed by the  
3 secretary, in accordance with s. 343.16 (5).

4 **SECTION 86.** 632.89 (1) (e) 1. of the statutes is amended to read:

5 632.89 (1) (e) 1. A program in an outpatient treatment facility, if both are  
6 approved by the department of health and family services, the program is  
7 established and maintained according to rules promulgated under s. 51.42 (7) (b) and  
8 the facility is approved and certified under s. 51.04.

9 **SECTION 9323. Initial applicability; health and family services.**

10 (b) FACILITY LICENSURE, CERTIFICATION, APPROVAL, AND REGISTRATION:

11 ENFORCEMENT. The treatment of sections 50.02 (1), (1d), and (3g) (a) 1., 50.03 (2)  
12 (d), (4) (c) 1. to 3., and (cm) 3., (4m), (5), (5g) (title) (a) (g), (5m) (a) 2. and 3.,  
13 (11), and (13) (c), 50.034 (8), 50.035 (11) (a) (b) and (d) and (e), 50.04 (4) (e) 3., (5) (e) and (f), and  
14 (6) (title) and (a) (g), 50.05 (2) (c), 50.053, 50.09 (6) (d), 50.14 (6), 50.35, 50.37 (1),  
15 50.38, 50.49 (7) and (10), 50.498 (1) (c), (1m), (3), and (4), 50.51 (2) (b), 50.52 (2) (intro.)  
16 and (4), 50.55 (1) and (2) (title), 50.925, 50.93 (1) (intro.), (3); (3g), and (4), 50.95 (7),  
17 and 50.98 of the statutes first applies to licenses, certifications, approvals, and  
18 registrations; issued conditional licenses, certifications, approvals, and probationary licenses  
19 issued; and to violations committed; on the effective date of this subsection.

20 (c) TREATMENT FACILITY APPROVAL AND CONDITIONAL APPROVAL; ENFORCEMENT. The

21 treatment of sections 46.031 (2r) (a) 3., 51.032 (1) (b) and (e), 51.04, 51.08, 51.09,  
22 51.45 (2) (b) and (c) and (8) (title) and (a) (f), 73.0301 (1) (d) 3., 301.031 (2r) (a) 3.,  
23 343.06 (1) (d), and 632.89 (1) (e) 1. of the statutes first applies to approvals and

(title) and (1), (2), and (3) (b), and 16 5.40 (b) (a) (intro.)

(b), (c), (d), (e), and

(b), (c), (d), (e), (f), and

(b), (c) (intro.) and 1, 2, and 3, (d), (e), (f), and

50.01 (4r),

(2) (am) 2.,

1. and 3.,

and (5)

(2) (a),

(4) and (5),

51.30 (10)

(b)

create auto-ref "A"

create auto-ref "B"

2, 3, 4, 5, 6, 7, and 8

(3) (f)

50.033 (2) and 14 (4)

(a) 1. b.,

2. and

(2) (f), (7), and

(d) and

(b) and

(6) (b)

(4)

issued

and probationary licenses

(e)

(2)

1 conditional approvals issued and to violations committed on the effective date of this  
2 subsection.

3 INSERT 41-2

(END)

D-NOTE

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FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1686/?ins

.....

✗ INSERT 4-4

✗ 1 SECTION 1. 50.01 (4r) of the statutes is amended to read:

2 50.01 (4r) "Plan of correction" means a ~~nursing home's~~ an applicable entity's  
3 response to alleged deficiencies cited by the department on forms provided by the  
4 department.

History: 1975 c. 413; 1977 c. 170, 418; 1979 c. 111; 1983 a. 189 s. 329 (18); 1985 a. 29, 276; 1985 a. 332 s. 251 (1); 1987 a. 127, 161; 1989 a. 31, 136, 199; 1991 a. 39; 1993 a. 327, 446, 491; 1995 a. 27; 1997 a. 13, 27, 156, 237; 1999 a. 22, 32.

✗ INSERT 5-12

✗ 5 SECTION 2. 50.02 (2) (am) 2. of the statutes is amended to read:

6 50.02 (2) (am) 2. For the purposes of s. 50.033, establishing minimum  
7 requirements for licensure, licensure application procedures and forms, standards  
8 for operation and procedures for monitoring, ~~and~~ inspection, revocation and appeal  
9 of revocation.

Strike comma

UNDERSCORE, RATHER THAN  
STRIKE

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 12-23

✗ 10 SECTION 3. 50.03 (5g) (c) 3. of the statutes is renumbered 50.02 (3m) (bm) and  
11 amended to read:

12 50.02 (3m) (bm) ~~Revocation~~ If the department provides to an entity written  
13 notice of revocation, the grounds for the revocation, an explanation of the types of  
14 sanctions or penalties that the department may impose under this subsection and  
15 an explanation of the process for appealing a sanction or penalty imposed under this  
16 subsection, the department may impose revocation of licensure, certification,  
17 approval, or registration or conditional licensure, certification, approval, or  
18 registration as specified in pars. (d) to (g) (c) to (f).

History: 1975 c. 413; 1977 c. 29, 170, 205, 272, 418, 447; 1979 c. 221; 1981 c. 20, 72, 121; 1981 c. 314 s. 146; 1985 a. 29 ss. 1058, 3202 (56) (a); 1985 a. 176; 1985 a. 182 s. 57; 1985 a. 332 s. 251 (1), (3); 1987 a. 27, 127, 399; 1989 a. 31, 359; 1991 a. 39, 221; 1993 a. 27, 112, 375, 491; 1995 a. 27 ss. 3227 to 3232, 9126 (19); 1997 a. 27, 114.

(a), (b), or (bm)

*[Handwritten signature]*

**INSERT 15-3**

**SECTION 4.** 50.03 (5g) (f) of the statutes is renumbered 50.02 (3m) (e) and amended to read:

certification, approval, or registration

50.02 (3m) (e) If a ~~community-based residential facility~~ an entity desires to contest the revocation of a license or to contest the ~~imposing imposition~~ of a sanction or penalty, including an assessment of forfeiture, under this subsection, or the issuance or terms of a conditional license, certification, approval, or registration under sub. (3g), the ~~community-based residential facility~~ entity shall, within 10 days after receipt of notice under par. (e), notify the department in writing of its request for a hearing under s. 227.44. The department shall hold ~~the hearing~~ a prehearing conference within 30 days after receipt of such the notice and shall send notice to the ~~community-based residential facility~~ entity of ~~the~~ a hearing as provided under s. 227.44 (2). This paragraph does not apply to the issuance of a notice of violation or the requirement to submit a plan of correction.

History: 1975 c. 413; 1977 c. 29, 170, 205, 272, 418, 447; 1979 c. 221; 1981 c. 20, 72, 121; 1981 c. 314 s. 146; 1985 a. 29 ss. 1058, 3202 (56) (a); 1985 a. 176; 1985 a. 182 s. 57; 1985 a. 332 s. 251 (1), (3); 1987 a. 27, 127, 399; 1989 a. 31, 359; 1991 a. 39, 221; 1993 a. 27, 112, 375, 491; 1995 a. 27 ss. 3227 to 3232, 9126 (19); 1997 a. 27, 114.

**INSERT 17-2**

**SECTION 5.** 50.033 (2) of the statutes is amended to read:

50.033 (2) REGULATION. Standards for operation of licensed adult family homes and procedures for application for licensure, monitoring, and inspection, revocation ~~and appeal of revocation~~ under this section shall be under rules promulgated by the department under s. 50.02 (2) (am) 2. An adult family home licensure is valid until revoked under ~~this section~~ s. 50.02 (3m) (bm). Licensure is not transferable. The biennial licensure fee for a licensed adult family home is \$135. The fee is payable to the county department under s. 46.215, 46.22, 46.23, 51.42 or 51.437, if the county department licenses the adult family home under sub. (1m) (b), and is payable to the



1 department, on a schedule determined by the department if the department licenses  
2 the adult family home under sub. (1m) (b).

History: 1993 a. 327; 1995 a. 27; 1997 a. 27; 1999 a. 9.

3 SECTION 6. 50.033 (4) of the statutes is repealed.

4 SECTION 7. 50.034 (2) (f) of the statutes is amended to read:

5 50.034 (2) (f) Establishing standards and procedures for ~~appeals of revocations~~  
6 ~~of certification or refusal to issue or renew certification.~~

History: 1995 a. 27; 1997 a. 13, 252; 1999 a. 9, 63, 185.

7 SECTION 8. 50.034 (7) of the statutes is repealed.

INSERT 22-6

8 SECTION 9. 50.05 (2) (b) of the statutes is amended to read:

9 50.05 (2) (b) The department has ~~suspended or~~ revoked the existing license of  
10 the facility.

History: 1977 c. 112; 1979 c. 32 s. 92 (9); 1979 c. 34; 1981 c. 121; 1983 a. 27 s. 2202 (20); 1985 a. 29 s. 3200 (23) (b), (c); 1987 a. 27; 1989 a. 31; 1993 a. 112, 453; 1995 a. 27, 224, 227; 1997 a. 27, 35; 1999 a. 83.

INSERT 23-21

11 SECTION 10. 50.49 (6) (b) of the statutes is amended to read:

12 50.49 (6) (b) A home health agency license is valid until ~~suspended or~~ revoked,  
13 except as provided in s. 50.498.

History: 1981 c. 93 ss. 162 to 166, 184; 1989 a. 31, 316; 1993 a. 27 s. 279; Stats. 1993 s. 50.49; 1993 a. 482; 1995 a. 225; 1997 a. 27, 237; 1999 a. 9, 83.

INSERT 23-23

14 SECTION 11. 50.49 (9) of the statutes is repealed.

15 SECTION 12. 50.49 (10) of the statutes is amended to read:

16 50.49 (10) ~~PROVISIONAL PROBATIONARY LICENSES.~~ Except as provided in s. 50.498,  
17 a provisional probationary license if approved by the department may be issued to  
18 any home health agency, the facilities of which are in use or needed for patients, but  
19 which is temporarily unable to conform to all the rules established under this section.  
20 A provisional probationary license may not be issued for more than one year.

History: 1981 c. 93 ss. 162 to 166, 184; 1989 a. 31, 316; 1993 a. 27 s. 279; Stats. 1993 s. 50.49; 1993 a. 482; 1995 a. 225; 1997 a. 27, 237; 1999 a. 9, 83.

**INSERT 26-12**

**SECTION 13.** 50.498 (1) (c) of the statutes is amended to read:

50.498 (1) (c) A ~~provisional~~ probationary license under s. 50.49 (10).

History: 1997 a. 237; 1999 a. 9.

**INSERT 27-9**

**SECTION 14.** 50.498 (5) of the statutes is amended to read:

50.498 (5) ~~An~~ Notwithstanding s. 50.02 (3m) (e), an action taken under sub. (3) or (4) is subject to review only as provided under s. 73.0301 (2) (b) and (5).

History: 1997 a. 237; 1999 a. 9.

**INSERT 28-7**

**SECTION 15.** 50.93 (2) (a) of the statutes is amended to read:

50.93 (2) (a) A hospice license is valid until ~~suspended or~~ revoked.

History: 1989 a. 199; 1991 a. 39; 1997 a. 27.

**SECTION 16.** 50.93 (3) of the statutes is amended to read:

50.93 (3) ~~PROVISIONAL~~ PROBATIONARY LICENSE. If the applicant has not been previously licensed under this subchapter or if the hospice is not in operation at the time that application is made, the department may issue a ~~provisional~~ probationary license. Unless sooner ~~suspended or~~ revoked under sub. (4), a ~~provisional~~ probationary license shall be valid for 24 months from the date of issuance. Within 30 days prior to the termination of a ~~provisional~~ probationary license, the department shall fully and completely inspect the hospice and, if the hospice meets the applicable requirements for licensure, shall issue a regular license under sub. (2). If the department finds that the hospice does not meet the requirements for licensure, the department may not issue a regular license under sub. (2).

History: 1989 a. 199; 1991 a. 39; 1997 a. 27.

**INSERT 28-21**

**SECTION 17.** 50.98 (2) of the statutes is renumbered 50.02 (3m) (b) ~~and~~ <sup>3</sup> and

amended to read:

19

20

under subd. 2.

1 50.02 (3m) (b) ~~1m~~. In determining whether a forfeiture is to be imposed under  
2 subd. 1. and in fixing the amount of the forfeiture to be imposed, if any, for a violation,  
3 the department shall consider the following factors shall be considered:

4 (a.) The gravity of the violation, including the probability that death or serious  
5 physical or psychological harm to a resident or patient will result or has resulted; the  
6 severity of the actual or potential harm; and the extent to which the provisions of the  
7 applicable statutes or rules were violated.

8 (b.) Good faith exercised by the licensee entity. Indications of good faith include,  
9 but are not limited to, awareness of the applicable statutes and regulation and  
10 reasonable diligence in complying with such requirements, prior accomplishments  
11 manifesting the licensee's desire to comply with the requirements, efforts to correct  
12 and any other mitigating factors in favor of the licensee entity.

13 (c.) Any previous violations committed by the licensee entity.

14 (d.) The financial benefit to the hospice entity of committing or continuing the  
15 violation.

History: 1989 a. 199.

16 SECTION 18. 50.98 (3) to (6) of the statutes are repealed.

INSERT 28-25

17 SECTION 19. 51.032 (4) of the statutes is amended to read:

18 51.032 (4) The department shall deny an application for the issuance of a  
19 certification or approval specified in sub. (1) or shall, notwithstanding s. 51.04 (4),  
20 revoke a certification or approval specified in sub. (1) if the department of revenue  
21 certifies under s. 73.0301 that the applicant for or holder of a certification or approval  
22 is liable for delinquent taxes.

History: 1997 a. 237; 1999 a. 9.

23 SECTION 20. 51.032 (5) of the statutes is amended to read:

1 51.032 (5) ~~An~~ Notwithstanding s. 51.04 (4), action taken under sub. (3) or (4)  
2 is subject to review only as provided under s. 73.0301 (2) (b) and (5).

History: 1997 a. 237; 1999 a. 9.

**INSERT 37-10**

x 3 **SECTION 21.** 51.30 (10) (b) of the statutes is amended to read:

4 51.30 (10) (b) ~~Whoever~~ Notwithstanding s. 51.04 (4) (a), whoever negligently  
5 discloses confidential information under this section is subject to a forfeiture of not  
6 more than \$1,000 for each violation.

History: 1975 c. 430; 1977 c. 26 s. 75; 1977 c. 61, 428; 1979 c. 110 s. 60 (1); 1983 a. 27, 292, 398, 538; 1985 a. 29, 176; 1985 a. 292 s. 3; 1985 a. 332 ss. 97, 98, 251 (1); 1987 a. 352, 355, 362, 367, 399, 403; 1989 a. 31, 334, 336; 1991 a. 39, 189; 1993 a. 196, 445, 479; 1995 a. 169, 440; 1997 a. 35, 231, 237, 283, 292; 1999 a. 32, 78, 79, 109; s. 13.93 (1) (b).

**INSERT 39-15**

7 **SECTION 22.** 165.40 (6) (a) (intro.) of the statutes is amended to read:

8 165.40 (6) (a) (intro.) No certificate of approval to maintain a hospital may be  
9 issued under s. 50.35 and a certificate of approval that has been issued under that  
10 section shall be ~~suspended or~~ revoked if any of the following occurs:

History: 1997 a. 93; 1999 a. 32.

**INSERT 41-2**

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

12 (1) FACILITY AND TREATMENT FACILITY; ENFORCEMENT. The treatment of sections  
13 46.031 (2r) (a) 3., 50.01 (4r), 50.02 (1), (1d), (2) (am) 2., and (3g) (a) 1. ~~8.~~ 8., 50.03 (2)  
14 (d), (3) (f), (4) (a) 1. b., (c) 1., 2., and 3., and (cm) 3., (4m), (5), (5g) (title) ~~and~~ (a), (b),  
15 ~~and~~ (c) (intro.) ~~and~~ 1., 2., and 3., (d), (c), (f), and (g) 1. and 3., (5m) (a) 2. and 3., (11),  
16 and (13) (c), 50.033 (2) and (4), 50.034 (2) (f), (7), and (8), 50.035 (11), 50.04 (4) (d) and  
17 (e) 3., (5) (e) and (f), and (6) (title), (a), (b), (c), (d), (e), (f), and (g), 50.05 (2) (b) and (c),  
18 50.053, 50.09 (6) (d), 50.14 (6), 50.35, 50.37 (1), 50.38, 50.49 (6) (b), (7), (9), and (10),  
19 50.498 (1) (c), (1m), (3), (4), and (5), 50.51 (2) (b), 50.52 (2) (intro.) and (4), 50.55 (1)  
20 and (2) (title), 50.925, 50.93 (1) (intro.), (2) (a), (3), (3g), and (4), 50.95 (7), 50.98 (title),  
21 (1), (2), ~~and~~ (3) ~~to~~ (6), 51.032 (1) (b) and (e), (4), and (5), 51.04, 51.08, 51.09, 51.30 (10)

2., 3., 4., 5., 6., 7., and

(4), (5), and

1 (b), 51.45 (2) (b) and (c), (8) (title), (a), (b), (c), (d), (e), and (f), 73.0301 (1) (d) 3., 165.40  
2 (6) (a) (intro.), 301.031 (2r) (a) 3., 343.06 (1) (d), 632.89 (1) (e) 1. of the statutes and  
3 SECTION 9323 (1) and (2) of this act take effect on the first day of the 7th month  
4 beginning after publication.

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

LRB-1686/?dn

DAK.....

J  
cjs

To Melissa Mullikin:

1. I repealed ss. 50.38 (4) and 50.49 (9), which provide order enforcement by the attorney general, because ~~it~~ included hospitals and home health agencies in s. 50.02 (3m) (a) (renumbered from 50.03 (5g) (b)). Okay?

2. I reworked ~~ss.~~ 50.02 (3m) (d) (renumbered from 50.03 (5g) (e)), which was, in part, redundant to 50.02 (3m) (bm); in addition, in s. 50.02 (3m) (d) 1., I deleted the requirement that DHFS revoke approval for a hospital that fails to comply with s. 165.40 (6) (a) 1. or 2., since that provision was redundant to the DHFS requirement in s. 50.02 (3m) (d) 2.

3. Is my treatment of ss. 50.498 (4) and (5), 51.032 (4) and (5), and 51.30 (10) (b), stats., correct?

Debora A. Kennedy  
Managing Attorney  
Phone: (608) 266-0137  
E-mail: debora.kennedy@legis.state.wi.us

I

close paren

5.

~~50.02 (3m) (d) 1.~~

(renumbered from  
s. 50.03(5g)(c)3.)

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

LRB-1686/1dn  
DAK:cjs:kjf

January 19, 2001

To Melissa Mullikin:

1. I repealed ss. 50.38 (4) and 50.49 (9), which provide order enforcement by the attorney general, because I included hospitals and home health agencies in s. 50.02 (3m) (a) (renumbered from 50.03 (5g) (b)). Okay?
2. I reworked s. 50.02 (3m) (d) (renumbered from 50.03 (5g) (e)), which was, in part, redundant to s. 50.02 (3m) (bm) (renumbered from s. 50.03 (5g) (c) 3.); in addition, in s. 50.02 (3m) (d) 1., I deleted the requirement that DHFS revoke approval for a hospital that fails to comply with s. 165.40 (6) (a) 1. or 2., since that provision was redundant to the DHFS requirement in s. 50.02 (3m) (d) 2.
3. Is my treatment of ss. 50.498 (4) and (5), 51.032 (4) and (5), and 51.30 (10) (b), stats., correct?

Debora A. Kennedy  
Managing Attorney  
Phone: (608) 266-0137  
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## Kennedy, Debora

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**From:** Forsaith, Andrew  
**Sent:** Wednesday, January 24, 2001 12:12 PM  
**To:** Kennedy, Debora  
**Cc:** Mullikin, Melissa  
**Subject:** Re: FW: LRB Draft: 01-1686/1 Forfeitures levied against facilities and treatment facilities

Thanks for sharing this draft and for incorporating the comments we had on the first draft. We a few more comments/requests:

✓ 1) Nursing home probationary licenses: We strongly urge that s.50.03(4m) not be deleted (see section 14 of the draft.) Irene Temple had raised this issue when reviewing the first comment, but I didnt pass along the comment in my emails to you. This paragraph allows us to issue a 12 month probationary license when a nursing home is first licensed or when the home is sold to a new entity. If the nursing home follows the rules in that first year, it is then issued a permanent license, which is valid until revoked. If it turns out to have poor compliance, then the probationary license expires. Without this paragraph, BQA would have to issue a permanent license immediately, then go through the difficult process of license revocation if the nursing home has poor compliance. Probationary licenses are an important in keeping the bad actors out of the industry.

Restoring s.50.03(4m) is consistent with our original request and our understanding of the Governor's decisions. We had originally asked that provisional license language be replaced with conditional licenses, but intended probationary licenses to be left as is. Restoring the paragraph is also consistent with the changes you made at our request to replace the word "provisional" with "probationary" in sections 50.49(10) (for home health) and 50.93(3) (for hospice).

✓ 2. Cross references to entity definitions. In various parts of s.50.02(3g), as created in the draft, refers to "an entity under s.50.01(1d)..." See for example draft section 19, p. 11. Should the reference be to s.50.02(1d)? *yes*

✓ 3. Adult family home forfeitures. It appears that under s. 19 of the draft, adult family homes are not given authority to assess forfeitures. Was this the Governor's intent? (The Department of course prefer to give them the authority to assess forfeitures.)

*DAK also added home health agencies - D-NOTE*

4. The changes described in drafter notes 1-3 look fine to us.

Thanks for considering these comments; please contact me or Irene Temple with any questions.

>>> Mullikin, Melissa 01/22/01 01:24PM >>>  
Andy,

Here is the new ch. 50 and 51 draft. The Governor has decided to go with three of the five provisions DHFS requested. Please have the relevant program people and attorneys look at the language and respond to Debora's drafters note. Please do so by Wednesday noon and cc me when you respond to Debora.

Thanks much,  
Melissa

Melissa Mullikin  
Executive Policy and Budget Analyst  
State Budget Office  
267-7980



-----Original Message-----

From: Follett, Kathy

Sent: Friday, January 19, 2001 2:18 PM

To: Mullikin, Melissa

Cc: Kraus, Jennifer; Currier, Dawn; Hanaman, Cathlene; Haugen, Caroline

Subject: LRB Draft: 01-1686/1 Forfeitures levied against facilities and treatment facilities

Following is the PDF version of draft 01-1686/1.