

2001 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-SB55)

Received: 06/21/2001

Received By: kenneda

Wanted: As time permits

Identical to LRB:

For: Assembly Republican Caucus 7-4887

By/Representing: Hughes

This file may be shown to any legislator: NO

Drafter: kenneda

May Contact: LFB
LFB
LFB

Addl. Drafters:

Subject: Health - facility licensure

Extra Copies:



Submit via email: NO

Requester's email:

Pre Topic:

ARC:.....Hughes -

Topic:

AM30--Respite facilities licensure

Instructions:

See Attached

Drafting History:

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	kenneda 06/24/2001	hhagen 06/26/2001	rschluet 06/26/2001	_____	lrb_docadmin 06/26/2001		
/2	kenneda 06/27/2001	hhagen 06/27/2001	rschluet 06/27/2001	_____	lrb_docadmin 06/27/2001		

FE Sent For:

<END>

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/1	kenneda 06/24/2001	hhagen 06/26/2001	rschluet 06/26/2001		lrb_docadmin 06/26/2001		

FE Sent For:

*12 hagen
6/27/01*

GIZKEND>

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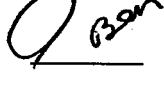
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1?	kenneda	11 hmk 6/25/01					

6-26-1

FE Sent For:

<END>

Budget Amendments 2001 - 2003

Prepared by the Assembly Republican Caucus

Statement of Intent United Cerebral Palsy Respite House

Legislator	Underheim	Amendment	30
Legislator 2		Pass or Fail	Pass
Legislator 3		Spending Cut	
Legislator 4		Withdrawn	
Staff contact	Sandy	Package	

Agency Health and Family Services

Summary United Cerebral Palsy (UCP) Respite House in Oshkosh.

UCP currently operates an 8-bed respite facility that serves a mixed age population (age 2 yr. and up). Their primary goal is to provide respite care to families that have a member with CP. The length of time of the respite care ranges from several hours to a couple of days. They operate 365 days a year. Currently, they are the only facility in Wisconsin that has attempted this to serve this population in this fashion due to the difficulty in obtaining licensure. But two other UCP facilities (Eau Claire and Wausau) would like to do the same thing as the Oshkosh facility & this would make it easier for them to do so.

Direct DHFS to create a new category of license for respite facilities using but not limited to the following criteria:

- 1) the facility serves a mixed age population (age 2 yr. & up);
- 2) allow up to a maximum of 10 beds;
- 3) allow the number of people served during the day to be up to double the bed capacity as long as the separate programs have separate leaders;
- 4) allow discretion for the separate program participants to eat together & go on field trips together;
- 5) allow fire safety training to be provided by local fire inspector or fire department;
- 6) allow DHFS or licensed facilities to purchase medication training video;
- 7) provide DHFS rule making authority for the above stated purpose & to submit the proposed rule to the legislature no later than October 31, 2002.

Fiscal Impact No fiscal impact.

Drafting Inst

ARC Analyst Hughes

Request # **142**



(soon) - In edit 9/24
State of Wisconsin
2001 - 2002 LEGISLATURE

LRBb1417/1

DAK: hmb

D-NOTE

ARC:.....Hughes – AM30—Respite facilities licensure

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS ASSEMBLY AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 653, line 10: after that line insert:

3 “SECTION 1877g. 50.01 (1) (b) of the statutes is amended to read:

4 50.01 (1) (b) A place where 3 or 4 adults who are not related to the operator
5 reside and receive care, treatment or services that are above the level of room and
6 board and that may include up to 7 hours per week of nursing care per resident.

7 “Adult family home” does not include a place that is specified in sub. (1g) (a) to (d),
8 (f) or (g) or a respite facility, as defined in s. 50.85 (1) (b).

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.

9 SECTION 1877h. 50.01 (1) (h) of the statutes is created to read:

10 50.01 (1) (h) A respite facility, as defined in s. 50.85 (1) (b).

1 (c) The department or the department's designated representative shall
2 inspect or investigate a respite facility prior to issuance of a license for the respite
3 facility and may inspect or investigate a respite facility as the department deems
4 necessary, including a review of patient health care records of any individuals served
5 by the respite facility, to determine if any person is in violation of this section.

6 (d) The past record of violations of applicable federal laws or regulations or of
7 state statutes or rules of this or any other state, in the operation of any
8 health-related organization, by an operator, managing employee, or direct or indirect
9 owner of a respite facility or of an interest of a respite facility is relevant to the issue
10 of the fitness of an applicant for a license. The department or the department's
11 designated representative shall inspect and investigate as necessary to determine
12 the conditions existing in each case under this paragraph and shall prepare and
13 maintain a written report concerning the investigation and inspection.

14 (4) USE OF NAME OR ADVERTISING PROHIBITED. No entity that is not a respite
15 facility licensed under this section or an applicant for a license under this section may
16 designate itself as a "respite facility" or use the word "respite facility" to represent
17 or tend to represent the entity as a respite facility or services provided by the entity
18 as services provided by a respite facility.

19 (5) LICENSING PROCEDURE. (a) The application for a license shall:

- 20 1. Be in writing on a form provided by the department.
- 21 2. Contain such information as the department requires.
- 22 3. Include licensing fee payment, as specified in sub. (6). ✓

23 (b) 1. A respite facility license is valid until suspended or revoked.

24 2. Each license shall be issued only for the applicant named in the application
25 and may not be transferred or assigned.

1 3. Any license granted under special limitations prescribed by the department
2 shall state the limitations.

3 (6) LICENSURE FEE. The annual fee for a licensed respite facility is \$18 per bed,
4 based on the number of licensed beds of the respite facility.

5 (7) SUSPENSION AND REVOCATION. (a) The department, after notice to the
6 applicant or licensee, may suspend or revoke a license in any case in which the
7 department finds that there has been a substantial failure to comply with the
8 requirements of this section or the rules promulgated under this section. No state
9 or federal funds passing through the state treasury may be paid to a respite facility
10 that does not have a valid license issued under this section.

11 (b) Notice under this subsection shall include a clear and concise statement of
12 the violations on which the revocation is based, the statute or rule violated and notice
13 of the opportunity for an evidentiary hearing under par. (c).

14 (c) If a respite facility desires to contest the revocation of a license, the respite
15 facility shall, within 10 days after receipt of notice under par. (b), notify the
16 department in writing of its request for a hearing under s. 227.44.

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

21 3. The department may extend the effective date of license revocation in any
22 case in order to permit orderly removal and relocation of individuals served by the
23 respite facility.

24 (8) RULE-MAKING AUTHORITY. The department shall promulgate all of the
25 following rules:

1 (a) Standards for the care, treatment, health, safety, rights, and welfare of
2 person^s with cerebral palsy who receive respite care care from a respite facility and
3 the maintenance, general hygiene and operation of a respite facility, which will
4 permit the use of advancing knowledge to promote safe and adequate care and
5 treatment for these individuals. These standards shall permit residents of a respite
6 facility and person^s with cerebral palsy who receive day care from a respite facility
7 to share dining facilities and day trips with persons with cerebral palsy who receive
8 overnight care from a respite facility. The standards shall also allow provision of fire
9 safety training by a local fire inspector or a fire department.

10 (b) Inspection or investigation procedures that the department or the
11 department's designated representative may use to assure the provision of care and
12 treatment that is commensurate with the standards established under par. (a). ✓

13 (c) Criteria for determining that the applicant for licensure is fit and qualified.

14 (d) A procedure for waiver of and variance from standards under par. (a) or ✓
15 criteria under par. (c). The department may limit the duration of the waiver or
16 variance.

17 (9) RIGHT OF INJUNCTION. The department may, upon the advice of the attorney
18 general, who shall represent the department in all proceedings under this section,
19 institute an action in the name of the state in the circuit court for Dane ^{STATE} County for
20 injunctive relief or other process against any licensee, owner, operator,
21 administrator or representative of any owner of a respite facility for the violation of
22 any of the provisions of this ~~subchapter~~ ^{Section} or rules promulgated under this ~~subchapter~~ ^{Section}
23 if the violation affects the health, safety, or welfare of persons with cerebral palsy.

24 (10) F~~OR~~FEITURES. (a) Any person who violates this subchapter or rules ✓
25 promulgated under this subchapter may be required to forfeit not more than \$100

1 for the first violation and may be required to forfeit not more than \$200 for the 2nd
 2 or any ~~later~~ ^{Subsequent} violation within a year. The period shall be measured using the dates
 3 of issuance of citations of the violations. Each day of violation constitutes a separate
 4 violation.

5 (b) In determining whether a forfeiture is to be imposed and in fixing the
 6 amount of the forfeiture to be imposed, if any, for a violation, the following factors
 7 shall be considered:

8 1. The gravity of the violation, including the probability that death or serious
 9 physical or psychological harm to a person receiving respite care from a respite
 10 facility will result or has resulted; the severity of the actual or potential harm; and
 11 the extent to which the provisions of the applicable statutes or rules were violated.

12 2. Good faith exercised by the licensee. Indications of good faith include, but
 13 are not limited to, awareness of the applicable statutes and regulation and
 14 reasonable diligence in complying with such requirements, prior accomplishments
 15 manifesting the licensee's desire to comply with the requirements, efforts to correct
 16 and any other mitigating factors in favor of the licensee.

17 3. Any previous violations committed by the licensee.

18 4. The financial benefit to the respite facility of committing or continuing the
 19 violation.

20 (c) The department may directly assess forfeitures provided for under ~~sub. (1)~~ ^{par. (a)}.

21 If the department determines that a forfeiture should be assessed for a particular
 22 violation or for failure to correct ^{the violation} it, ~~it~~ shall send a notice of assessment to the hospice.
 23 The notice shall specify the amount of the forfeiture assessed, the violation, and the
 24 statute or rule alleged to have been violated, and shall inform the licensee of the right

25 to a hearing under ~~sub. (1)~~ ^{par. (d)}.

par. (a) *this subsection*

par. (d)

par. (c)

1 (d) A respite facility may contest an assessment of forfeiture, by sending, within
 2 10 days after receipt of notice under ~~sub 13~~, a written request for hearing under s.
 3 227.44 to the division of hearings and appeals created under s. 15.103 (1). The
 4 administrator of the division may designate a hearing examiner to preside over the
 5 case and recommend a decision to the administrator under s. 227.46. The decision
 6 of the administrator of the division shall be the final administrative decision. The
 7 division shall commence the hearing within 30 days after receipt of the request for
 8 hearing and shall issue a final decision within 15 days after the close of the hearing.
 9 Proceedings before the division are governed by ch. 227. In any petition for judicial
 10 review of a decision by the division, the party, other than the petitioner, who was in
 11 the proceeding before the division shall be the named respondent.

12 (e) All forfeitures shall be paid to the department within 10 days after receipt
 13 of notice of assessment or, if the forfeiture is contested under ~~sub (4)~~ ^{par. (d)} within 10 days
 14 after receipt of the final decision after exhaustion of administrative review, unless
 15 the final decision is appealed and the order is stayed by court order under the same
 16 terms and conditions as found in s. 50.03 (11). The department shall remit all
 17 forfeitures paid to the state treasurer for deposit in the school fund.

18 (f) The attorney general may bring an action in the name of the state to collect
 19 any forfeiture imposed under this section if the forfeiture has not been paid following
 20 the exhaustion of all administrative and judicial reviews. The only issue to be
 21 contested in any such action shall be whether the forfeiture has been paid.

22 **SECTION 1900d.** 50.90 (intro.) ^X of the statutes is amended to read:

23 **50.90 Definitions.** (intro.) In this subchapter ^{plan} ss. 50.90 to 50.981 ^{section}:

24 History: 1989 a. 199; 1993 a. 112.

SECTION 1900e. 50.91 of the statutes is amended to read:

1 **50.91 Departmental powers and duties.** The department shall provide
2 uniform, statewide licensing, inspection and regulation of hospices as specified in
3 ~~this subchapter~~ ss. 50.90 to 50.981.

History: 1989 a. 199.

4 **SECTION 1900f.** 50.92 (2) of the statutes is amended to read:

5 **50.92 (2)** The department shall issue a license if the department finds that the
6 applicant is fit and qualified and that the hospice meets the requirements of this
7 ~~subchapter~~ ss. 50.90 to 50.981 and the rules promulgated under ~~this subchapter~~ ss.
8 50.90 to 50.981.

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

9 **SECTION 1900g.** 50.92 (3) of the statutes is amended to read:

10 **50.92 (3)** The department or the department's designated representative shall
11 inspect or investigate a hospice prior to issuance of a license for the hospice except
12 as provided in sub. (4) and may inspect or investigate a hospice as the department
13 deems necessary, including conducting home visits or a review of health care records
14 of any individuals with terminal illness served by the hospice, to determine if any
15 person is in violation of ~~this subchapter~~ ss. 50.90 to 50.981.

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

16 **SECTION 1900h.** 50.925 of the statutes is amended to read:

17 **50.925 Use of name or advertising prohibited.** No entity that is not a
18 hospice licensed under ~~this subchapter~~ ss. 50.90 to 50.981 or an applicant for a
19 license or a provisional license under ~~this subchapter~~ ss. 50.90 to 50.981 may
20 designate itself as a "hospice" or use the word "hospice" to represent or tend to
21 represent the entity as a hospice or services provided by the entity as services
22 provided by a hospice.

History: 1989 a. 199.

23 **SECTION 1900i.** 50.93 (3) of the statutes is amended to read:

1 50.93 (3) PROVISIONAL LICENSE. If the applicant has not been previously licensed
2 under ~~this subchapter s. 50.92~~ or if the hospice is not in operation at the time that
3 application is made, the department may issue a provisional license. Unless sooner
4 suspended or revoked under sub. (4), a provisional license shall be valid for 24
5 months from the date of issuance. Within 30 days prior to the termination of a
6 provisional license, the department shall fully and completely inspect the hospice
7 and, if the hospice meets the applicable requirements for licensure, shall issue a
8 regular license under sub. (2). If the department finds that the hospice does not meet
9 the requirements for licensure, the department may not issue a regular license under
10 sub. (2).

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

11 **SECTION 1900j.** 50.93 (4) (a) of the statutes is amended to read:

12 50.93 (4) (a) The department, after notice to the applicant or licensee, may
13 suspend or revoke a license in any case in which the department finds that there has
14 been a substantial failure to comply with the requirements of ~~this subchapter ss.~~
15 50.90 to 50.981 or the rules promulgated under ~~this subchapter ss. 50.90 to 50.981.~~
16 No state or federal funds passing through the state treasury may be paid to a hospice
17 not having a valid license issued under this section.

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

18 **SECTION 1900k.** 50.97 of the statutes is amended to read:

19 **50.97 Right of injunction.** The department may, upon the advice of the
20 attorney general, who shall represent the department in all proceedings under this
21 section, institute an action in the name of the state in the circuit court for Dane
22 County for injunctive relief or other process against any licensee, owner, operator,
23 administrator or representative of any owner of a hospice for the violation of any of
24 the provisions of ~~this subchapter ss. 50.90 to 50.981~~ or rules promulgated under ~~this~~

1 subchapter ss. 50.90 to 50.981 if the violation affects the health, safety or welfare of
2 individuals with terminal illness.

History: 1989 a. 199.

3 **SECTION 1900L.** 50.98 (1) of the statutes is amended to read:

4 50.98 (1) Any person who violates ~~this subchapter~~ ss. 50.90 to 50.981 or rules
5 promulgated under ~~this subchapter~~ ss. 50.90 to 50.981 may be required to forfeit not
6 more than \$100 for the first violation and may be required to forfeit not more than
7 \$200 for the 2nd or any later violation within a year. The period shall be measured
8 using the dates of issuance of citations of the violations. Each day of violation
9 constitutes a separate violation.

History: 1989 a. 199.

10 **SECTION 1900m.** 50.981 of the statutes is amended to read:

11 **50.981 Fees permitted for a workshop or seminar.** If the department
12 develops and provides a workshop or seminar relating to the provision of services by
13 hospices under ~~this subchapter~~ ss. 50.90 to 50.981, the department may establish a
14 fee for each workshop or seminar and impose the fee on registrants for the workshop
15 or seminar. A fee so established and imposed shall be in an amount sufficient to
16 reimburse the department for the costs directly associated with developing and
17 providing the workshop or seminar.”.

History: 1997 a. 27

18 **2.** Page 1338, line 20: after that line insert:

19 ^{18f}
“(2) RESPITE FACILITIES; RULES. The department of health and family services
21 shall submit in proposed form the rules required under section 50.85 (8) of the
22 statutes, as created by this act, to the legislative council staff under section 227.15
(1) of the statutes no later than October 31, 2002.”.

Non-sto
sub

23 **3.** Page 1420, line 19: after that line insert:

①
effective 2
-3

184

"(1) RESPITE FACILITIES. The treatment of sections of the statutes takes effect on March 1, 2003."

(END)

D-NOTE

50.01 (1)(b) and (h) and (3)(f), subch. IV (title) of
ch. 50, 50.85, 50.90 (intro.), 50.91, 50.92 (2)
and (3), 50.925, 50.93(3) and (4)(a), 50.97,
50.98(1), and 50.981

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb1417/1dn
DAK: *kmh*

Date

In drafting this amendment, numerous issues arose for which I lacked information. The issues, and the ways in which I resolved them, are as follows:

1. There was no indication of what should be used as a model for licensure; I chose to use the hospice provisions, ss. 50.90 to 50.981, stats.
2. There was no indication of whether a licensure fee should be charged, and, if so, in what amount the fee should be. I chose to require an annual fee of \$18 per bed, based on the number of licensed beds of the respite facility—this is the fee specified for numerous kinds of facilities, under s. 50.135, stats.
3. Because the request specified that rules were to be submitted to the legislative council staff by October 31, 2002, I created an effective date for creation of the licensure category as a whole of March 1, 2003.

Questions that I have been unable to resolve are the following:

1. Should a respite facility staff be included in the registry under s. 146.40 (4g), stats., as are hospice aides? If so, what is the professional status of respite facility staff, e.g., are they nurse's assistants?
2. Do you want a respite facility to be able to be part of a rural medical center, under s. 50.50, stats.?
3. Does a respite facility receive any state or federal funding?
4. Will the prohibition under s. 50.85 (4), as created in the amendment, pose any problems for any existing facility?

Please review.

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb1417/1dn
DAK:hmh:rs

June 26, 2001

In drafting this amendment, numerous issues arose for which I lacked information. The issues, and the ways in which I resolved them, are as follows:

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2. Do you want a respite facility to be able to be part of a rural medical center, under s. 50.50, stats.?
3. Does a respite facility receive any state or federal funding?
4. Will the prohibition under s. 50.85 (4), as created in the amendment, pose any problems for any existing facility?

Please review.

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

6/27 From Sandy (Underheim's office)

61417

(*) Respite facility that serves a population with a like or similar disability - dept to define by rule

Direct DHS to create new category of licensure w/ 7 criteria

Separate programs w/ separate

CBRF + Group foster care

leave annual fee at \$18

(*) AM 50.065 (1)(c) background

(*) Rural medical center



SOON - Inedit 6/27
State of Wisconsin
2001 - 2002 LEGISLATURE

LRBb1417/E 2

DAK:hmh:15

Stays

ARC:.....Hughes - AM30—Respite facilities licensure

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS ASSEMBLY AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

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5 reside and receive care, treatment or services that are above the level of room and

6 board and that may include up to 7 hours per week of nursing care per resident.

7 “Adult family home” does not include a place that is specified in sub. (1g) (a) to (d),

8 (f) or (g) or a respite facility, as defined in s. 50.85 (1) (b).

9 SECTION 1877h. 50.01 (1) (h) of the statutes is created to read:

10 50.01 (1) (h) A respite facility, as defined in s. 50.85 (1) (b).

1 SECTION 1877i. 50.01 (3) (f) of the statutes is created to read:

2 50.01 (3) (f) A respite facility, as defined in s. 50.85 (1) (b).”

3 2. Page 654, line 6: after that line insert:

4 ~~SECTION 1900b.~~ Subchapter IV (title) of chapter 50 [precedes 50.85] of the
5 statutes is amended to read:

6 CHAPTER 50

7 SUBCHAPTER IV

8 RESPITE FACILITIES AND HOSPICES

9 SECTION 1900c. 50.85 of the statutes is created to read:

10 50.85 Respite facilities for persons with ~~cerebral palsy~~. (1) DEFINITIONS

11 In this section:

12 (a) “Respite care” means care provided to a person with ~~cerebral palsy~~ in order
13 to provide temporary relief to the primary caregiver.

14 (b) “Respite facility” means a facility in which overnight respite care is provided
15 to up to 10 persons with ~~cerebral palsy~~ who are at least 2 years of age and in which
16 day respite care may be provided to up to 10 additional persons with ~~cerebral palsy~~
17 who are at least 2 years of age.

18 (2) DEPARTMENTAL POWERS AND DUTIES. The department shall provide uniform,
19 statewide licensure, inspection, and regulation of respite facilities as specified in this
20 section.

21 (3) LICENSURE REQUIREMENTS. (a) No person may conduct, maintain, operate,
22 or otherwise participate in conducting, maintaining, or operating a respite facility
23 unless the respite facility is licensed by the department.

INSERT
2-3

like or similar
disabilities
B

a disability

like or similar disabilities

INSERT
2-11

12

14

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23

1 (b) The department shall issue a license if the department finds that the
2 applicant is fit and qualified and that the respite facility meets the requirements of
3 this section and the rules promulgated under this section.

4 (c) The department or the department's designated representative shall
5 inspect or investigate a respite facility prior to issuance of a license for the respite
6 facility and may inspect or investigate a respite facility as the department deems
7 necessary, including a review of patient health care records of any individuals served
8 by the respite facility, to determine if any person is in violation of this section.

9 (d) The past record of violations of applicable federal laws or regulations or of
10 state statutes or rules of this or any other state, in the operation of any
11 health-related organization, by an operator, managing employee, or direct or
12 indirect owner of a respite facility or of an interest of a respite facility is relevant to
13 the issue of the fitness of an applicant for a license. The department or the
14 department's designated representative shall inspect and investigate as necessary
15 to determine the conditions existing in each case under this paragraph and shall
16 prepare and maintain a written report concerning the investigation and inspection.

17 (4) USE OF NAME OR ADVERTISING PROHIBITED. No entity that is not a respite
18 facility licensed under this section or an applicant for a license under this section may
19 designate itself as a "respite facility" or use the word "respite facility" to represent
20 or tend to represent the entity as a respite facility or services provided by the entity
21 as services provided by a respite facility.

22 (5) LICENSING PROCEDURE. (a) The application for a license shall:

- 23 1. Be in writing on a form provided by the department.
- 24 2. Contain such information as the department requires.
- 25 3. Include licensing fee payment, as specified in sub. (6).

1 (b) 1. A respite facility license is valid until suspended or revoked.

2 2. Each license shall be issued only for the applicant named in the application
3 and may not be transferred or assigned.

4 3. Any license granted under special limitations prescribed by the department
5 shall state the limitations.

6 (6) LICENSURE FEE. The annual fee for a licensed respite facility is \$18 per bed,
7 based on the number of licensed beds of the respite facility.

8 (7) SUSPENSION AND REVOCATION. (a) The department, after notice to the
9 applicant or licensee, may suspend or revoke a license in any case in which the
10 department finds that there has been a substantial failure to comply with the
11 requirements of this section or the rules promulgated under this section. No state
12 or federal funds passing through the state treasury may be paid to a respite facility
13 that does not have a valid license issued under this section.

14 (b) Notice under this subsection shall include a clear and concise statement of
15 the violations on which the revocation is based, the statute or rule violated and notice
16 of the opportunity for an evidentiary hearing under par. (c).

17 (c) If a respite facility desires to contest the revocation of a license, the respite
18 facility shall, within 10 days after receipt of notice under par. (b), notify the
19 department in writing of its request for a hearing under s. 227.44.

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

1 3. The department may extend the effective date of license revocation in any
2 case in order to permit orderly removal and relocation of individuals served by the
3 respite facility.

4 (8) RULE-MAKING AUTHORITY. The department shall promulgate all of the
5 following rules:

like or similar disabilities

6 (a) Standards for the care, treatment, health, safety, rights, and welfare of
7 persons with ~~cerebral palsy~~ who receive respite care care from a respite facility and
8 the maintenance, general hygiene and operation of a respite facility, which will
9 permit the use of advancing knowledge to promote safe and adequate care and
10 treatment for these individuals. These standards shall permit ~~residents of a respite~~
11 ~~facility and~~ persons with ~~cerebral palsy~~ (who receive day care from a respite facility
12 to share dining facilities and day trips with persons with ~~cerebral palsy~~ who receive
13 overnight care from a respite facility. The standards shall also allow provision of fire
14 safety training by a local fire inspector or a fire department.

15 (b) Inspection or investigation procedures that the department or the
16 department's designated representative may use to assure the provision of care and
17 treatment that is commensurate with the standards established under par. (a).

18 (c) Criteria for determining that the applicant for licensure is fit and qualified.

19 (d) A procedure for waiver of and variance from standards under par. (a) or
20 criteria under par. (c). The department may limit the duration of the waiver or
21 variance.

INSERT 5-21

22 (9) RIGHT OF INJUNCTION. The department may, upon the advice of the attorney
23 general, who shall represent the department in all proceedings under this section,
24 institute an action in the name of the state in the circuit court for Dane County for
25 injunctive relief or other process against any licensee, owner, operator,

1 administrator or representative of any owner of a respite facility for the violation of
2 any of the provisions of this section or rules promulgated under this section if the
3 violation affects the health, safety, or welfare of persons with ^{like or similar} cerebral palsy ^{disabilities}

4 (10) FORFEITURES. (a) Any person who violates this subchapter or rules
5 promulgated under this subchapter may be required to forfeit not more than \$100
6 for the first violation and may be required to forfeit not more than \$200 for the 2nd
7 or any subsequent violation within a year. The period shall be measured using the
8 dates of issuance of citations of the violations. Each day of violation constitutes a
9 separate violation.

10 (b) In determining whether a forfeiture is to be imposed and in fixing the
11 amount of the forfeiture to be imposed, if any, for a violation, the following factors
12 shall be considered:

13 1. The gravity of the violation, including the probability that death or serious
14 physical or psychological harm to a person receiving respite care from a respite
15 facility will result or has resulted; the severity of the actual or potential harm; and
16 the extent to which the provisions of the applicable statutes or rules were violated.

17 2. Good faith exercised by the licensee. Indications of good faith include, but
18 are not limited to, awareness of the applicable statutes and regulation and
19 reasonable diligence in complying with such requirements, prior accomplishments
20 manifesting the licensee's desire to comply with the requirements, efforts to correct
21 and any other mitigating factors in favor of the licensee.

22 3. Any previous violations committed by the licensee.

23 4. The financial benefit to the respite facility of committing or continuing the
24 violation.

respite facility

1 (c) The department may directly assess forfeitures provided for under par. (a).
2 If the department determines that a forfeiture should be assessed for a particular
3 violation or for failure to correct the violation, the department shall send a notice of
4 assessment to the ~~licensee~~. The notice shall specify the amount of the forfeiture
5 assessed, the violation, and the statute or rule alleged to have been violated, and
6 shall inform the licensee of the right to a hearing under par. (d).

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

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

24 (f) The attorney general may bring an action in the name of the state to collect
25 any forfeiture imposed under this section if the forfeiture has not been paid following

1 the exhaustion of all administrative and judicial reviews. The only issue to be
2 contested in any such action shall be whether the forfeiture has been paid.

3 **SECTION 1900d.** 50.90 (intro.) of the statutes is amended to read:

4 **50.90 Definitions.** (intro.) In this subchapter section to s. 50.981:

5 **SECTION 1900e.** 50.91 of the statutes is amended to read:

6 **50.91 Departmental powers and duties.** The department shall provide
7 uniform, statewide licensing, inspection and regulation of hospices as specified in
8 ~~this subchapter~~ ss. 50.90 to 50.981.

9 **SECTION 1900f.** 50.92 (2) of the statutes is amended to read:

10 50.92 (2) The department shall issue a license if the department finds that the
11 applicant is fit and qualified and that the hospice meets the requirements of ~~this~~
12 ~~subchapter~~ ss. 50.90 to 50.981 and the rules promulgated under ~~this subchapter~~ ss.
13 50.90 to 50.981.

14 **SECTION 1900g.** 50.92 (3) of the statutes is amended to read:

15 50.92 (3) The department or the department's designated representative shall
16 inspect or investigate a hospice prior to issuance of a license for the hospice except
17 as provided in sub. (4) and may inspect or investigate a hospice as the department
18 deems necessary, including conducting home visits or a review of health care records
19 of any individuals with terminal illness served by the hospice, to determine if any
20 person is in violation of ~~this subchapter~~ ss. 50.90 to 50.981.

21 **SECTION 1900h.** 50.925 of the statutes is amended to read:

22 **50.925 Use of name or advertising prohibited.** No entity that is not a
23 hospice licensed under ~~this subchapter~~ ss. 50.90 to 50.981 or an applicant for a
24 license or a provisional license under ~~this subchapter~~ ss. 50.90 to 50.981 may
25 designate itself as a "hospice" or use the word "hospice" to represent or tend to

1 represent the entity as a hospice or services provided by the entity as services
2 provided by a hospice.

3 **SECTION 1900i.** 50.93 (3) of the statutes is amended to read:

4 **50.93 (3) PROVISIONAL LICENSE.** If the applicant has not been previously licensed
5 under this subchapter s. 50.92 or if the hospice is not in operation at the time that
6 application is made, the department may issue a provisional license. Unless sooner
7 suspended or revoked under sub. (4), a provisional license shall be valid for 24
8 months from the date of issuance. Within 30 days prior to the termination of a
9 provisional license, the department shall fully and completely inspect the hospice
10 and, if the hospice meets the applicable requirements for licensure, shall issue a
11 regular license under sub. (2). If the department finds that the hospice does not meet
12 the requirements for licensure, the department may not issue a regular license under
13 sub. (2).

14 **SECTION 1900j.** 50.93 (4) (a) of the statutes is amended to read:

15 **50.93 (4) (a)** The department, after notice to the applicant or licensee, may
16 suspend or revoke a license in any case in which the department finds that there has
17 been a substantial failure to comply with the requirements of ~~this subchapter ss.~~
18 50.90 to 50.981 or the rules promulgated under ~~this subchapter ss. 50.90 to 50.981.~~
19 No state or federal funds passing through the state treasury may be paid to a hospice
20 not having a valid license issued under this section.

21 **SECTION 1900k.** 50.97 of the statutes is amended to read:

22 **50.97 Right of injunction.** The department may, upon the advice of the
23 attorney general, who shall represent the department in all proceedings under this
24 section, institute an action in the name of the state in the circuit court for Dane
25 County for injunctive relief or other process against any licensee, owner, operator,

1 administrator or representative of any owner of a hospice for the violation of any of
2 the provisions of ~~this subchapter ss. 50.90 to 50.981~~ or rules promulgated under ~~this~~
3 ~~subchapter ss. 50.90 to 50.981~~ if the violation affects the health, safety or welfare of
4 individuals with terminal illness.

5 **SECTION 1900L.** 50.98 (1) of the statutes is amended to read:

6 50.98 (1) Any person who violates ~~this subchapter ss. 50.90 to 50.981~~ or rules
7 promulgated under ~~this subchapter ss. 50.90 to 50.981~~ may be required to forfeit not
8 more than \$100 for the first violation and may be required to forfeit not more than
9 \$200 for the 2nd or any later violation within a year. The period shall be measured
10 using the dates of issuance of citations of the violations. Each day of violation
11 constitutes a separate violation.

12 **SECTION 1900m.** 50.981 of the statutes is amended to read:

13 **50.981 Fees permitted for a workshop or seminar.** If the department
14 develops and provides a workshop or seminar relating to the provision of services by
15 hospices under ~~this subchapter ss. 50.90 to 50.981~~, the department may establish a
16 fee for each workshop or seminar and impose the fee on registrants for the workshop
17 or seminar. A fee so established and imposed shall be in an amount sufficient to
18 reimburse the department for the costs directly associated with developing and
19 providing the workshop or seminar. *no bold*

20 **3.** Page 1338, line 20: after that line insert:

21 “(18f) RESPITE FACILITIES; RULES. The department of health and family services
22 shall submit in proposed form the rules required under section 50.85 (8) of the
23 statutes, as created by this act, to the legislative council staff under section 227.15
24 (1) of the statutes no later than October 31, 2002.”.

1 **4.** Page 1420, line 19: after that line insert:

2 “(18f) RESPITE FACILITIES. The treatment of sections 50.01 (1) (b) and (h) and (3)
3 (f), ~~Subch. IV (title) of ch. 50,~~ 50.85, 50.90 (intro.), 50.91, 50.92 (2) and (3), 50.925,
4 50.93 (3) and (4) (a), 50.97, 50.98 (1), and 50.981 of the statutes takes effect on March
5 1, 2003.”

and Subchapter IV (title) of
Chapter 50

(END)

50.065 (1) (c) (intro.), 50.50 (3) (a) 7.,

Section 50.065 (1) (c) of the statutes is amended to read:

1894r

50.065 (1) (c) "Entity" means a facility, organization or service that is licensed or certified by or registered with the department to provide direct care or treatment services to clients. "Entity" includes a hospital, a personal care worker agency, a supportive home care service agency, a temporary employment agency that provides caregivers to another entity and the board on aging and long-term care. "Entity" does not include any of the following:

- 1. Licensed or certified child care under ch. 48.
 - 2. Kinship care under s. 48.57 (3m) or long-term kinship care under s. 48.57 (3n).
 - 3. A person certified as a medical assistance provider, as defined in s. 49.43 (10), who is not otherwise approved under s. 50.065 (1) (cm), licensed or certified by or registered with the department.
 - 4. An entity, as defined in s. 48.685 (1) (b).
 - 6. A public health dispensary established under s. 252.10.
- History: 1997 a. 27, 105, 237; 1999 a. 9, 32, 56, 185, 186.

, a respite facility,

→ SECTION 1897g CR; 50.50 (3)(a) 7.
50.50 (3)(a) 7. A respite facility.

INSERT 2-11

(a) "Disability" has the meaning given in
rules promulgated under sub. (8)(e).

(b) "Like or similar disabilities" has the meaning
given in rules promulgated under sub. (8)(f).

INSERT 5-21

(e) A definition of "disability" for the purposes of this section.

✓
(f) A definition of "like or similar disabilities" for the purposes of this section.

ARC:.....Hughes - AM30—Respite facilities licensure

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS ASSEMBLY AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 653, line 10: after that line insert:

3 "SECTION 1877g. 50.01 (1) (b) of the statutes is amended to read:

4 50.01 (1) (b) A place where 3 or 4 adults who are not related to the operator
5 reside and receive care, treatment or services that are above the level of room and
6 board and that may include up to 7 hours per week of nursing care per resident.

7 "Adult family home" does not include a place that is specified in sub. (1g) (a) to (d),
8 (f) or (g) or a respite facility, as defined in s. 50.85 (1) (b).

9 SECTION 1877h. 50.01 (1) (h) of the statutes is created to read:

10 50.01 (1) (h) A respite facility, as defined in s. 50.85 (1) (b).

1 (c) “Respite care” means care provided to a person with a disability in order to
2 provide temporary relief to the primary caregiver.

3 (d) “Respite facility” means a facility in which overnight respite care is provided
4 to up to 10 persons with like or similar disabilities who are at least 2 years of age and
5 in which day respite care may be provided to up to 10 additional persons with like
6 or similar disabilities who are at least 2 years of age.

7 (2) DEPARTMENTAL POWERS AND DUTIES. The department shall provide uniform,
8 statewide licensure, inspection, and regulation of respite facilities as specified in this
9 section.

10 (3) LICENSURE REQUIREMENTS. (a) No person may conduct, maintain, operate,
11 or otherwise participate in conducting, maintaining, or operating a respite facility
12 unless the respite facility is licensed by the department.

13 (b) The department shall issue a license if the department finds that the
14 applicant is fit and qualified and that the respite facility meets the requirements of
15 this section and the rules promulgated under this section.

16 (c) The department or the department’s designated representative shall
17 inspect or investigate a respite facility prior to issuance of a license for the respite
18 facility and may inspect or investigate a respite facility as the department deems
19 necessary, including a review of patient health care records of any individuals served
20 by the respite facility, to determine if any person is in violation of this section.

21 (d) The past record of violations of applicable federal laws or regulations or of
22 state statutes or rules of this or any other state, in the operation of any
23 health-related organization, by an operator, managing employee, or direct or
24 indirect owner of a respite facility or of an interest of a respite facility is relevant to
25 the issue of the fitness of an applicant for a license. The department or the

1 department's designated representative shall inspect and investigate as necessary
2 to determine the conditions existing in each case under this paragraph and shall
3 prepare and maintain a written report concerning the investigation and inspection.

4 (4) USE OF NAME OR ADVERTISING PROHIBITED. No entity that is not a respite
5 facility licensed under this section or an applicant for a license under this section may
6 designate itself as a "respite facility" or use the word "respite facility" to represent
7 or tend to represent the entity as a respite facility or services provided by the entity
8 as services provided by a respite facility.

9 (5) LICENSING PROCEDURE. (a) The application for a license shall:

- 10 1. Be in writing on a form provided by the department.
- 11 2. Contain such information as the department requires.
- 12 3. Include licensing fee payment, as specified in sub. (6).

13 (b) 1. A respite facility license is valid until suspended or revoked.

14 2. Each license shall be issued only for the applicant named in the application
15 and may not be transferred or assigned.

16 3. Any license granted under special limitations prescribed by the department
17 shall state the limitations.

18 (6) LICENSURE FEE. The annual fee for a licensed respite facility is \$18 per bed,
19 based on the number of licensed beds of the respite facility.

20 (7) SUSPENSION AND REVOCATION. (a) The department, after notice to the
21 applicant or licensee, may suspend or revoke a license in any case in which the
22 department finds that there has been a substantial failure to comply with the
23 requirements of this section or the rules promulgated under this section. No state
24 or federal funds passing through the state treasury may be paid to a respite facility
25 that does not have a valid license issued under this section.

1 (b) Notice under this subsection shall include a clear and concise statement of
2 the violations on which the revocation is based, the statute or rule violated and notice
3 of the opportunity for an evidentiary hearing under par. (c).

4 (c) If a respite facility desires to contest the revocation of a license, the respite
5 facility shall, within 10 days after receipt of notice under par. (b), notify the
6 department in writing of its request for a hearing under s. 227.44.

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

11 3. The department may extend the effective date of license revocation in any
12 case in order to permit orderly removal and relocation of individuals served by the
13 respite facility.

14 (8) ~~RULE-MAKING AUTHORITY.~~ The department shall promulgate all of the
15 following rules:

16 (a) Standards for the care, treatment, health, safety, rights, and welfare of
17 persons with like or similar disabilities who receive respite care care from a respite
18 facility and the maintenance, general hygiene and operation of a respite facility,
19 which will permit the use of advancing knowledge to promote safe and adequate care
20 and treatment for these individuals. These standards shall permit persons with like
21 or similar disabilities who receive day care from a respite facility to share dining
22 facilities and day trips with persons with with like or similar disabilities who receive
23 overnight care from a respite facility. The standards shall also allow provision of fire
24 safety training by a local fire inspector or a fire department.

1 (b) Inspection or investigation procedures that the department or the
2 department's designated representative may use to assure the provision of care and
3 treatment that is commensurate with the standards established under par. (a).

4 (c) Criteria for determining that the applicant for licensure is fit and qualified.

5 (d) A procedure for waiver of and variance from standards under par. (a) or
6 criteria under par. (c). The department may limit the duration of the waiver or
7 variance.

8 (e) A definition of "disability" for the purposes of this section.

9 (f) A definition of "like or similar disabilities" for the purposes of this section.

10 (9) RIGHT OF INJUNCTION. The department may, upon the advice of the attorney
11 general, who shall represent the department in all proceedings under this section,
12 institute an action in the name of the state in the circuit court for Dane County for
13 injunctive relief or other process against any licensee, owner, operator,
14 administrator or representative of any owner of a respite facility for the violation of
15 any of the provisions of this section or rules promulgated under this section if the
16 violation affects the health, safety, or welfare of persons with like or similar
17 disabilities.

18 (10) FORFEITURES. (a) Any person who violates this subchapter or rules
19 promulgated under this subchapter may be required to forfeit not more than \$100
20 for the first violation and may be required to forfeit not more than \$200 for the 2nd
21 or any subsequent violation within a year. The period shall be measured using the
22 dates of issuance of citations of the violations. Each day of violation constitutes a
23 separate violation.

1 (b) In determining whether a forfeiture is to be imposed and in fixing the
2 amount of the forfeiture to be imposed, if any, for a violation, the following factors
3 shall be considered:

4 1. The gravity of the violation, including the probability that death or serious
5 physical or psychological harm to a person receiving respite care from a respite
6 facility will result or has resulted; the severity of the actual or potential harm; and
7 the extent to which the provisions of the applicable statutes or rules were violated.

8 2. Good faith exercised by the licensee. Indications of good faith include, but
9 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.

13 3. Any previous violations committed by the licensee.

14 4. The financial benefit to the respite facility of committing or continuing the
15 violation.

16 (c) The department may directly assess forfeitures provided for under par. (a).
17 If the department determines that a forfeiture should be assessed for a particular
18 violation or for failure to correct the violation, the department shall send a notice of
19 assessment to the respite facility. The notice shall specify the amount of the
20 forfeiture assessed, the violation, and the statute or rule alleged to have been
21 violated, and shall inform the licensee of the right to a hearing under par. (d).

22 (d) A respite facility may contest an assessment of forfeiture, by sending, within
23 10 days after receipt of notice under par. (c), a written request for hearing under s.
24 227.44 to the division of hearings and appeals created under s. 15.103 (1). The
25 administrator of the division may designate a hearing examiner to preside over the

1 case and recommend a decision to the administrator under s. 227.46. The decision
2 of the administrator of the division shall be the final administrative decision. The
3 division shall commence the hearing within 30 days after receipt of the request for
4 hearing and shall issue a final decision within 15 days after the close of the hearing.
5 Proceedings before the division are governed by ch. 227. In any petition for judicial
6 review of a decision by the division, the party, other than the petitioner, who was in
7 the proceeding before the division shall be the named respondent.

8 (e) All forfeitures shall be paid to the department within 10 days after receipt
9 of notice of assessment or, if the forfeiture is contested under par. (d), within 10 days
10 after receipt of the final decision after exhaustion of administrative review, unless
11 the final decision is appealed and the order is stayed by court order under the same
12 terms and conditions as found in s. 50.03 (11). The department shall remit all
13 forfeitures paid to the state treasurer for deposit in the school fund.

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

18 **SECTION 1900d.** 50.90 (intro.) of the statutes is amended to read:

19 **50.90 Definitions.** (intro.) In this ~~subchapter~~ section to s. 50.981:

20 **SECTION 1900e.** 50.91 of the statutes is amended to read:

21 **50.91 Departmental powers and duties.** The department shall provide
22 uniform, statewide licensing, inspection and regulation of hospices as specified in
23 ~~this subchapter~~ ss. 50.90 to 50.981.

24 **SECTION 1900f.** 50.92 (2) of the statutes is amended to read:

1 50.92 (2) The department shall issue a license if the department finds that the
2 applicant is fit and qualified and that the hospice meets the requirements of this
3 subchapter ss. 50.90 to 50.981 and the rules promulgated under ~~this subchapter ss.~~
4 50.90 to 50.981.

5 **SECTION 1900g.** 50.92 (3) of the statutes is amended to read:

6 50.92 (3) The department or the department's designated representative shall
7 inspect or investigate a hospice prior to issuance of a license for the hospice except
8 as provided in sub. (4) and may inspect or investigate a hospice as the department
9 deems necessary, including conducting home visits or a review of health care records
10 of any individuals with terminal illness served by the hospice, to determine if any
11 person is in violation of ~~this subchapter ss. 50.90 to 50.981~~.

12 **SECTION 1900h.** 50.925 of the statutes is amended to read:

13 **50.925 Use of name or advertising prohibited.** No entity that is not a
14 hospice licensed under ~~this subchapter ss. 50.90 to 50.981~~ or an applicant for a
15 license or a provisional license under ~~this subchapter ss. 50.90 to 50.981~~ may
16 designate itself as a "hospice" or use the word "hospice" to represent or tend to
17 represent the entity as a hospice or services provided by the entity as services
18 provided by a hospice.

19 **SECTION 1900i.** 50.93 (3) of the statutes is amended to read:

20 50.93 (3) **PROVISIONAL LICENSE.** If the applicant has not been previously licensed
21 under ~~this subchapter s. 50.92~~ or if the hospice is not in operation at the time that
22 application is made, the department may issue a provisional license. Unless sooner
23 suspended or revoked under sub. (4), a provisional license shall be valid for 24
24 months from the date of issuance. Within 30 days prior to the termination of a
25 provisional license, the department shall fully and completely inspect the hospice

1 and, if the hospice meets the applicable requirements for licensure, shall issue a
2 regular license under sub. (2). If the department finds that the hospice does not meet
3 the requirements for licensure, the department may not issue a regular license under
4 sub. (2).

5 **SECTION 1900j.** 50.93 (4) (a) of the statutes is amended to read:

6 50.93 (4) (a) The department, after notice to the applicant or licensee, may
7 suspend or revoke a license in any case in which the department finds that there has
8 been a substantial failure to comply with the requirements of ~~this subchapter ss.~~
9 50.90 to 50.981 or the rules promulgated under ~~this subchapter ss. 50.90 to 50.981.~~
10 No state or federal funds passing through the state treasury may be paid to a hospice
11 not having a valid license issued under this section.

12 **SECTION 1900k.** 50.97 of the statutes is amended to read:

13 **50.97 Right of injunction.** The department may, upon the advice of the
14 attorney general, who shall represent the department in all proceedings under this
15 section, institute an action in the name of the state in the circuit court for Dane
16 County for injunctive relief or other process against any licensee, owner, operator,
17 administrator or representative of any owner of a hospice for the violation of any of
18 the provisions of ~~this subchapter ss. 50.90 to 50.981~~ or rules promulgated under ~~this~~
19 ~~subchapter ss. 50.90 to 50.981~~ if the violation affects the health, safety or welfare of
20 individuals with terminal illness.

21 **SECTION 1900L.** 50.98 (1) of the statutes is amended to read:

22 50.98 (1) Any person who violates ~~this subchapter ss. 50.90 to 50.981~~ or rules
23 promulgated under ~~this subchapter ss. 50.90 to 50.981~~ may be required to forfeit not
24 more than \$100 for the first violation and may be required to forfeit not more than
25 \$200 for the 2nd or any later violation within a year. The period shall be measured

1 using the dates of issuance of citations of the violations. Each day of violation
2 constitutes a separate violation.

3 **SECTION 1900m.** 50.981 of the statutes is amended to read:

4 **50.981 Fees permitted for a workshop or seminar.** If the department
5 develops and provides a workshop or seminar relating to the provision of services by
6 hospices under ~~this subchapter~~ ss. 50.90 to 50.981, the department may establish a
7 fee for each workshop or seminar and impose the fee on registrants for the workshop
8 or seminar. A fee so established and imposed shall be in an amount sufficient to
9 reimburse the department for the costs directly associated with developing and
10 providing the workshop or seminar.”.

11 **3.** Page 1338, line 20: after that line insert:

12 “(18f) RESPITE FACILITIES; RULES. The department of health and family services
13 shall submit in proposed form the rules required under section 50.85 (8) of the
14 statutes, as created by this act, to the legislative council staff under section 227.15
15 (1) of the statutes no later than October 31, 2002.”.

16 **4.** Page 1420, line 19: after that line insert:

17 “(18f) RESPITE FACILITIES. The treatment of sections 50.01 (1) (b) and (h) and (3)
18 (f), 50.065 (1) (c) (intro.), 50.50 (3) (a) 7., 50.85, 50.90 (intro.), 50.91, 50.92 (2) and (3),
19 50.925, 50.93 (3) and (4) (a), 50.97, 50.98 (1), and 50.981 and subchapter IV (title),
20 of chapter 50 of the statutes takes effect on March 1, 2003.”.

21 (END)