

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0580/1dn
CTS:lmk&kjf:pg

December 14, 2004

Representative Wasserman:

This draft is identical to 2003 AB-16, as amended by AA-1, except that I have altered the exemption from the licensure requirement for nursing home administrators. The previous draft exempted an administrator of a nursing home "operated by adherents of a church or religious denomination which subscribes to the act of healing by prayer and the principles of which are opposed to medical treatment." This draft refers instead to an administrator of "a nursing home that provides only nonmedical nursing items and services exclusively to residents who choose to rely solely upon a religious method of healing or for whom the acceptance of medical health services would be inconsistent with their religious beliefs." This definition is based on a provision in the federal Medicare Act, 42 USC 1395x (ss) (1), and identifies the facilities at issue by reference to the services provided and the residents who receive those services, rather than focusing on the church or religious denomination that operates a facility or the tenets of those who receive services at a facility. Please let me know if the exemption provision in this draft accurately reflects your intent.

In discussing your request with Mark Kunkel, who drafted the 2003 bill, Mark indicated that the exemption language in the 2003 draft had initially been taken from s. 50.03 (9), which defines an exemption from nursing home and CBRF licensing requirements in terms of "churches opposed to medical treatment." This particular language was taken out of the 2003 bill by amendment in response to an objection that it mischaracterizes the beliefs held by Christian Scientists. Mark indicated it was also suggested that s. 50.03 (9) might be amended to do away with the "opposed to medical treatment" language. I considered including a revision of s. 50.03 (9) incorporating the language from the Medicare Act referenced above, but have not included such an amendment in this draft. The present language of s. 50.03 (9) is not a model of clarity, and achieving clarity would require significant changes that you may or may not wish to include in this draft. Please contact me if you wish to pursue changes to s. 50.03 (9).

Christopher T. Sundberg
Legislative Attorney
Phone: (608) 266-9739
E-mail: christopher.sundberg@legis.state.wi.us