



MONDAY
State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-0035/34

DAK:wlj:rs

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Ink

2005 BILL

REGENERATE

Regm

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1 AN ACT *to repeal* 50.04 (2) (d); *to renumber* 49.498 (7) (a); *to renumber and*
2 *amend* 50.09 (1); *to amend* 49.498 (6) (a), 49.498 (7) (b) (intro.), 50.02 (2) (bn),
3 50.09 (title), 50.09 (2), (4) and (5) and 50.09 (6) (a), (b) and (d); and *to create*
4 13.94 (12), 16.009 (1) (em) 7., 20.432 (1) (gt), 46.27 (11) (c) 9., 46.275 (5) (b) 8.,
5 46.277 (5) (h), 48.685 (2) (am) 2g., 48.685 (2) (am) 2r., 48.685 (2) (b) 1. bg., 48.685
6 (2) (b) 1. br., 49.45 (6m) (a) 3m., 49.45 (6m) (a) 4m., 49.45 (6m) (a) 5m., 49.45 (6m)
7 (m), 49.498 (7) (ag), 49.498 (7) (am) 6., 49.498 (7) (am) 7., 50.034 (3) (e), 50.034
8 (9), 50.04 (2) (e), 50.065 (2) (am) 2g., 50.065 (2) (am) 2r., 50.065 (2) (b) 1g., 50.065
9 (2) (b) 2r. and 50.09 (1g) of the statutes; **relating to:** authorizing access by the
10 long-term care ombudsman or his or her representative to a client or resident
11 in a residential care apartment complex, imposing an annual assessment on
12 occupied apartments of residential care apartment complexes, expanding
13 rights of residents of facilities; minimum staffing requirements for certain
14 nursing homes; requiring audits by the Legislative Audit Bureau; requiring

BILL

- 1 reports; ~~admission, denial of admission, provision of services, transfer, and~~
 2 ~~discharge for individuals by nursing facilities and community-based~~
 3 ~~residential facilities that are providers of Medical Assistance;~~ caregiver
 4 background checks; quality of nursing home care; requiring the exercise of
 5 rule-making authority; and making an appropriation.

*Analysis by the Legislative Reference Bureau***RESIDENTIAL CARE APARTMENT COMPLEXES**

Under current law, under the Long-Term Care Ombudsman Program, the long-term care ombudsman or his or her designated representative may enter a long-term care facility at any time, without notice, and have access to clients and residents of the facility. "Long-term care facility" is defined as a nursing home, a community-based residential facility (C-BRF), a place in which care is provided under a continuing care contract, a swing bed in an acute care or extended care facility, or an adult family home. The ombudsman or representative may communicate in private with a client or resident, review records with consent of the client or resident or his or her legal counsel, and have access to records of the long-term care facility or of the the Department of Health and Family Services (DHFS) concerning regulation of the long-term care facility.

Also under current law, residential care apartment complexes are certified or registered and otherwise regulated by DHFS. A "residential care apartment complex" is defined as a place where five or more adults reside that consists of independent apartments, each of which has an individual lockable entrance and exit, a kitchen with a stove, and individual bathroom, sleeping, and living areas, and that provides to a resident not more than 28 hours per week of supportive, personal, and nursing services.

Current law specifies rights of residents of nursing homes and community-based residential facilities, including the rights to have private and unrestricted communication with others, to present grievances without justifiable fear of reprisal, and to be fully informed of all services, charges for services, and changes in service.

This bill expands the definition of a long-term care facility, for purposes of activities by the long-term care ombudsman or his or her designated representative, to include residential care apartment complexes.

The bill imposes an assessment on each residential care apartment complex of \$12 per year per occupied apartment, which, beginning on July 1, 2006, the complex must pay annually to DHFS. The assessment is based on occupied apartments for the complex for the preceding June. DHFS must enforce and collect the assessment, which must be credited to an appropriation of program revenues for expenditure by

BILL

the Board on Aging and Long-Term Care for activities under the Long-Term Care Ombudsman Program in residential care apartment complexes.

The bill includes residents of residential care apartment complexes as persons entitled to the rights that are specified under current law for residents of nursing homes and community-based residential facilities.

The bill requires a residential care apartment complex to post in a conspicuous location a notice of the name, address, and telephone number of the Long-Term Care Ombudsman Program.

NURSING HOME MINIMUM STAFFING REQUIREMENTS

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

This bill requires DHFS to promulgate rules to specify minimum staffing standards that instead are based on ratios between the number of residents of a nursing home and the number of registered nurses, licensed practical nurses, and certified nurse's assistants (as defined in the bill) on duty in the nursing home during morning, afternoon, and evening shifts. By July 1, 2007, minimum nursing home staffing requirements under current law are eliminated, and DHFS must convert those minimum staffing requirements to the minimum staffing standards specified in DHFS rules, provide training to DHFS staff on enforcement of the standards, and assist nursing homes in implementing the standards. DHFS must, by January 1, 2007, report to the governor and to the legislature concerning the status of DHFS compliance with these requirements. By July 1, 2007, nursing homes must have on duty the number of registered nurses, licensed practical nurses, and certified nurse's assistants necessary to satisfy the minimum staffing standards specified in DHFS rules. Support personnel and certain other nursing home staff may not be used for purposes of calculating the minimum staffing ratios.

Under the bill, DHFS must, by January 1, 2009, submit a report to the governor and to the legislature with recommendations as to methods by which nursing homes would be able more effectively to recruit and retain caregivers; proposed revised minimum nursing home staffing ratios that minimize additional state costs, maximize access to care, facilitate care of the highest quality, and take into account the levels of care for physical or mental conditions that nursing home residents require; and a proposed revised nursing home Medical Assistance (MA) Program reimbursement methodology. DHFS must develop the report after first referring to the most recent national research on nursing home staffing and consulting with specified persons and entities.

Also, under the bill, by July 1, 2008, and by July 1 every 48 months thereafter, the Legislative Audit Bureau must conduct a performance evaluation audit of the nursing home staffing requirements, investigate whether the staffing requirements should be based in part on the level of care for physical or mental conditions that a nursing home resident requires, and file a report of the audit with the governor and the legislature.

BILL

Under the bill, DHFS must submit to the legislature by each January 1 from 2006 to 2009 a report that includes information from the preceding year for each nursing home on average wage and fringe benefit costs, costs of nonemployee purchased nursing services, staff turnover, total revenue and expenses, staff training and continuing education costs, and law violations and related information. Each report must also include recommendations by DHFS for ways by which nursing homes may reduce their reliance on nonemployee purchased nursing services.

NONDISCRIMINATION FOR MA RESIDENTS OF FACILITIES

Under current law, nursing homes that are certified to provide care that is reimbursed by MA are prohibited from taking certain actions with respect to admissions. Nursing homes also must have identical policies and practices for transfer, discharge, and service provision for all nursing home residents, regardless of payment.

This bill requires MA-certified nursing homes to establish and maintain identical policies and practices for admission of all persons regardless of payment source. The bill prohibits these nursing homes from considering the available source of payment when deciding to admit or expedite the admission of a person who is or will be entitled to MA. Further, the bill requires that these nursing homes provide notice, in writing, to an applicant or to his or her guardian or agent within five days of deciding to admit or deny the applicant or delay the admission of the applicant. If the applicant is denied or his or her admission is delayed, the notice must include a statement of the reason for the denial or delay. The bill clarifies that a nursing home must establish identical policies and practices concerning transfer, discharge, and provision of services for all persons regardless of the source of their payment.

Under current law, MA may be used to reimburse a C-BRF for services provided to a resident of the facility under the Long-Term Support Community Options Program (COP), under a community integration program for persons relocated from the state centers for the developmentally disabled, and under a community integration program for elderly and physically disabled persons who meet the level-of-care requirements for MA-reimbursed nursing home care or who are relocated from facilities. Numerous requirements apply to C-BRFs that receive the MA reimbursement.

The bill prohibits a county, private nonprofit agency, or aging unit from using MA funds under COP or either community integration program to provide services in a C-BRF unless the C-BRF establishes and maintains identical policies and practices for admission, transfer, discharge, and service provision for all individuals regardless of payment source; refrains from considering an applicant's available source of payment when deciding to admit the applicant or expedite his or her admission; and provides to an applicant, in writing, notice of a decision by the C-BRF to admit or deny the applicant or delay the applicant's admission, within five days of the decision.

CRIMINAL BACKGROUND CHECKS

Under current law relating to criminal histories and child abuse record searches, DHFS, a county department, a child welfare agency, or a school board must conduct background checks by obtaining certain information with respect to persons

BILL

who have or are seeking licenses, certifications, or contracts to operate entities, and an entity must obtain the same information with respect to a caregiver of the entity. (“Entity” is defined as a child welfare agency, a licensed foster home or treatment foster home, a group home, a shelter care facility, a day care center, a day care provider, or a temporary employment agency that provides caregivers to another entity.) The information that must be obtained is a criminal history search from records maintained by the Department of Justice; any information in a registry kept by DHFS of persons against whom DHFS has made findings of misappropriation of property, neglect, or abuse; any applicable information maintained by the Department of Regulation and Licensing about the status of the person’s credentials; information maintained by DHFS about substantiated reports of the person’s child abuse or neglect; and information maintained by DHFS about denial to the person of a license, certification, or certain contracts, employment, or permission to reside at an entity, for specific reasons including conviction for a serious crime. Very similar laws relating to criminal histories and patient abuse record searches apply to persons who have or are seeking a license, certificate, registration, or certificate of approval issued by DHFS to operate a facility, organization, or service (such as a hospital or a personal care worker agency) that is licensed, certified, or registered with DHFS to provide direct care or services to patients.

This bill creates two additional sources of information that must be checked with respect to persons who have or are seeking licenses, certifications, or contracts to operate entities, facilities, organizations, or services: (1) information maintained by the Department of Corrections in the registry of sex offenders; and (2) information on persons convicted of crimes as specified under the circuit court automation information system maintained by the Wisconsin court system on its Internet site.

QUALITY OF NURSING HOME CARE

This bill requires DHFS to submit to the legislature a proposal for legislation to create a program to provide grants to nursing homes for quality-of-care improvement projects.

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

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

- 1 **SECTION 1.** 13.94 (12) of the statutes is created to read:
- 2 13.94 (12) NURSING HOME STAFFING. By July 1, 2008, and by July 1 every 48
- 3 months thereafter, the legislative audit bureau shall conduct a performance
- 4 evaluation audit of the nursing home staffing requirements under s. 50.04 (2) and
- 5 investigate whether the staffing requirements should be based in part on the level

BILL

1 of care for physical or mental conditions that a nursing home resident requires. The
 2 legislative audit bureau shall consult advocates for nursing home residents,
 3 physicians, nurses, nursing home employees or their representatives, nursing home
 4 administrators, and other experts in the field of long-term care and shall consider
 5 current research and case data, as well as any other relevant resources, in assessing
 6 whether the staffing ratios are sufficient to meet the needs of nursing home
 7 residents. The legislative audit bureau shall file a report of each audit with the
 8 legislature under s. 13.172 (3) and with the governor no later than 30 days after
 9 completion of the audit.

10 **SECTION 2.** 16.009 (1) (em) 7. of the statutes is created to read:

11 16.009 (1) (em) 7. A residential care apartment complex, as defined in s. 50.01
 12 (1d).

13 **SECTION 3.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
 14 the following amounts for the purposes indicated:

	2005-06	2006-07
20.432 Board on aging and long-term care		
(1) IDENTIFICATION OF THE NEEDS OF THE AGED AND DISABLED		
(gt) Activities in residential care apartment complexes	PR A	-0- 48,900

21 **SECTION 4.** 20.432 (1) (gt) of the statutes is created to read:

22 20.432 (1) (gt) *Activities in residential care apartment complexes.* The amounts
 23 in the schedule for Long-Term Care Ombudsman Program activities in residential

BILL

1 care apartment complexes. All moneys received under s. 50.034 (9) shall be credited
2 to this appropriation account.

3 **SECTION 5.** 46.27 (11) (c) 9. of the statutes is created to read:

4 46.27 (11) (c) 9. No county, private nonprofit agency, or aging unit may use
5 funds received under this subsection to provide services in a community-based
6 residential facility unless the community-based residential facility does all of the
7 following:

8 a. Establishes and maintains identical policies and practices regarding
9 admission, transfer, discharge, and service provision for all individuals regardless
10 of source of payment.

11 b. Refrains from considering an applicant's available source of payment when
12 deciding to admit or expedite the admission of an applicant who is or will be entitled
13 to Medical Assistance for services of a community-based residential facility.

14 c. Provides to an applicant or his or her guardian or agent, in writing, within
15 5 days of a decision by the community-based residential facility to admit, deny, or
16 delay the admission of the applicant, notice of the decision. If the community-based
17 residential facility has decided to deny or delay admission of the applicant, the notice
18 shall include a statement of the reason for the denial or delay.

19 **SECTION 6.** 46.275 (5) (b) 8. of the statutes is created to read:

20 46.275 (5) (b) 8. Provide services in a community-based residential facility
21 unless the community-based residential facility does all of the following:

22 a. Establishes and maintains identical policies and practices regarding
23 admission, transfer, discharge, and service provision for all individuals regardless
24 of source of payment.

BILL

1 b. Refrains from considering an applicant's available source of payment when
2 deciding to admit or expedite the admission of an applicant who is or will be entitled
3 to Medical Assistance for services of a community-based residential facility.

4 c. Provides to an applicant or his or her guardian or agent, in writing, within
5 5 days of a decision by the community-based residential facility to admit, deny, or
6 delay the admission of the applicant, notice of the decision. If the community-based
7 residential facility has decided to deny or delay admission of the applicant, the notice
8 shall include a statement of the reason for the denial or delay.

9 **SECTION 7.** 46.277 (5) (h) of the statutes is created to read:

10 46.277 (5) (h) No county or private nonprofit agency may use funds received
11 under this subsection to provide services in a community-based residential facility
12 unless the community-based residential facility does all of the following:

13 1. Establishes and maintains identical policies and practices regarding
14 admission, transfer, discharge, and service provision for all individuals regardless
15 of source of payment.

16 2. Refrains from considering an applicant's available source of payment when
17 deciding to admit or expedite the admission of an applicant who is or will be entitled
18 to Medical Assistance for services of a community-based residential facility.

19 3. Provides to an applicant or his or her guardian or agent, in writing, within
20 5 days of a decision by the community-based residential facility to admit, deny, or
21 delay the admission of the applicant, notice of the decision. If the community-based
22 residential facility has decided to deny or delay admission of the applicant, the notice
23 shall include a statement of the reason for the denial or delay.

24 **SECTION 8.** 48.685 (2) (am) 2g. of the statutes is created to read:

BILL

1 48.685 (2) (am) 2g. Information maintained by the department of corrections
2 in the registry of sex offenders under s. 301.45 (2).

3 **SECTION 9.** 48.685 (2) (am) 2r. of the statutes is created to read:

4 48.685 (2) (am) 2r. Information on persons convicted of crimes as specified
5 under the circuit court automation information system maintained by the Wisconsin
6 court system on its Internet site.

7 **SECTION 10.** 48.685 (2) (b) 1. bg. of the statutes is created to read:

8 48.685 (2) (b) 1. bg. Information maintained by the department of corrections
9 in the registry of sex offenders under s. 301.45 (2).

10 **SECTION 11.** 48.685 (2) (b) 1. br. of the statutes is created to read:

11 48.685 (2) (b) 1. br. Information on persons convicted of crimes as specified
12 under the circuit court automation information system maintained by the Wisconsin
13 court system on its Internet site.

14 **SECTION 12.** 49.45 (6m) (a) 3m. of the statutes is created to read:

15 49.45 (6m) (a) 3m. “Licensed practical nurse” means a nurse who is licensed
16 or has a temporary permit under s. 441.10.

17 **SECTION 13.** 49.45 (6m) (a) 4m. of the statutes is created to read:

18 49.45 (6m) (a) 4m. “Nurse’s assistant” has the meaning given in s. 146.40 (1)
19 (d).

20 **SECTION 14.** 49.45 (6m) (a) 5m. of the statutes is created to read:

21 49.45 (6m) (a) 5m. “Registered nurse” means a nurse who has a certificate of
22 registration under s. 441.06 or a temporary permit order under s. 441.08.

23 **SECTION 15.** 49.45 (6m) (m) of the statutes is created to read:

BILL**SECTION 15**

1 49.45 (6m) (m) By January 1, 2006, 2007, 2008, and 2009, the department shall
2 submit a report to the chief clerk of each house of the legislature, for distribution to
3 the legislature under s. 13.172 (2), that shall include all of the following:

4 1. For the preceding calendar year for each facility:

5 a. The staff turnover rate for registered nurses, licensed practical nurses, and
6 nurse's assistants employed by the facility.

7 b. The average hourly wage and fringe benefit costs, including specific
8 unemployment compensation and worker's compensation costs, for registered
9 nurses, licensed practical nurses, nurse's assistants, dietary staff, housekeeping
10 staff, and laundry staff employed by the facility and the average hourly cost for
11 nonemployee purchased services, if any, of registered nurses, licensed practical
12 nurses, and nurse's assistants.

13 c. Total revenues and expenses, total net income after taxes, expenses for each
14 of the facility's cost centers under par. (am), the medical assistance reimbursement
15 rate and method of calculation, the number of patient beds, and the number of
16 patient days.

17 d. Total cost of recruiting, screening, educating, and training the nursing staff
18 of the facility.

19 e. Any correlation that may be shown between the number of notices of
20 violations for class "A," "B," or "C" violations a facility received under s. 50.04, if any,
21 and the frequency with which the facility used nonemployee purchased services of
22 registered nurses, licensed practical nurses, or nurse's assistants.

23 2. Recommendations of the department for incentives for facilities to reduce
24 reliance on nonemployee purchased services of registered nurses, licensed practical
25 nurses, or nurse's assistants.

BILL

1 **SECTION 16.** 49.498 (6) (a) of the statutes is amended to read:

2 49.498 (6) (a) A nursing facility shall establish and maintain identical policies
3 and practices regarding transfer, discharge and the provision of services required
4 under the approved state medicaid plan for all individuals regardless of source of
5 payment.

6 **SECTION 17.** 49.498 (7) (a) of the statutes is renumbered 49.498 (7) (am).

7 **SECTION 18.** 49.498 (7) (ag) of the statutes is created to read:

8 49.498 (7) (ag) A nursing facility shall establish and maintain identical policies
9 and practices regarding admission for all individuals regardless of source of
10 payment.

11 **SECTION 19.** 49.498 (7) (am) 6. of the statutes is created to read:

12 49.498 (7) (am) 6. A nursing facility may not consider an applicant's available
13 source of payment when making a decision to admit or expedite the admission of an
14 individual who is or will be entitled to Medical Assistance for nursing facility
15 services.

16 **SECTION 20.** 49.498 (7) (am) 7. of the statutes is created to read:

17 49.498 (7) (am) 7. A nursing facility that decides to admit or deny or delay the
18 admission of an applicant shall provide, in writing, notice of the decision to the
19 applicant or his or her guardian or agent within 5 days of the decision. If the nursing
20 facility has decided to deny or delay admission of the applicant, the notice shall
21 include a statement of the reason for the denial or delay.

22 **SECTION 21.** 49.498 (7) (b) (intro.) of the statutes is amended to read:

23 49.498 (7) (b) (intro.) Paragraph (a) (am) may not be construed to do any of the
24 following:

25 **SECTION 22.** 50.02 (2) (bn) of the statutes is amended to read:

BILL

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

4 **SECTION 23.** 50.034 (3) (e) of the statutes is created to read:

5 50.034 (3) (e) Post in a conspicuous location in the residential care apartment
6 complex a notice, provided by the board on aging and long-term care, of the name,
7 address, and telephone number of the Long-Term Care Ombudsman Program under
8 s. 16.009 (2) (b).

9 **SECTION 24.** 50.034 (9) of the statutes is created to read:

10 50.034 (9) ASSESSMENT ON OCCUPIED APARTMENTS. (a) In this subsection,
11 “complex” means a certified or registered residential care apartment complex.

12 (b) For the privilege of doing business in this state, there is imposed on all
13 occupied apartments of a complex an annual assessment that shall be credited to the
14 appropriation account under s. 20.432 (1) (gt) and that is \$12 per apartment.

15 (c) By July 1 annually, a complex shall submit to the department the amount
16 due under par. (b) for each occupied apartment of the complex for the preceding June.
17 The department shall verify the number of apartments of a complex and, if necessary,
18 make adjustments to the payment, notify the complex of changes in the payment
19 owing, and send the complex an invoice for the additional amount due or send the
20 complex a refund.

21 (d) Sections 77.59 (1) to (5), (6) (intro.), (a), and (c), and (7) to (10), 77.60 (1) to
22 (7), (9), and (10), 77.61 (9) and (12) to (14), and 77.62, as they apply to the taxes under
23 subch. III of ch. 77, apply to the assessment under this subsection.

BILL

1 (e) 1. The department shall enforce and collect the assessment under this
2 subsection and shall develop and distribute forms necessary for levying and
3 collection.

4 2. The department shall promulgate rules that establish procedures and
5 requirements for levying the assessment under this subsection.

6 (f) 1. An affected complex may contest an action by the department under this
7 subsection by submitting a written request for a hearing to the department within
8 30 days after the date of the department's action.

9 2. An order or determination made by the department under a hearing as
10 specified in subd. 1. is subject to judicial review as prescribed under ch. 227.

11 **SECTION 25.** 50.04 (2) (d) of the statutes is repealed.

12 **SECTION 26.** 50.04 (2) (e) of the statutes is created to read:

13 50.04 (2) (e) 1. In this paragraph:

14 a. "Afternoon work shift" means the 8-hour work shift that begins immediately
15 after the morning shift.

16 b. "Certified nurse's assistant" means a nurse's assistant who meets the
17 requirements specified under 42 USC 1296r (b) (5) (A) to (E).

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

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

22 2. The department shall promulgate rules that specify minimum staffing
23 standards that are based on ratios between the number of registered nurses on duty
24 in a nursing home per morning work shift, afternoon work shift, or evening work
25 shift and the number of residents of the nursing home, between the number of

BILL

1 licensed practical nurses on duty in a nursing home per morning work shift,
2 afternoon work shift, or evening work shift and the number of residents of the
3 nursing home, and between the number of certified nurse's assistants on duty in a
4 nursing home per morning work shift, afternoon work shift, or evening work shift
5 and the number of residents of the nursing home.

6 3. By July 1, 2007, the department shall convert the minimum staffing
7 requirements specified in s. 50.04 (2) (d), 2005 stats., to the minimum staffing
8 standards specified in subd. 2., shall provide training to staff on enforcement of the
9 standards, and shall assist nursing homes in implementing the standards.

10 4. By July 1, 2007, a nursing home, other than a nursing home that primarily
11 serves the developmentally disabled, shall have on duty the number of registered
12 nurses, licensed practical nurses, and certified nurse's assistants necessary to satisfy
13 the minimum staffing standards developed by the department under subd. 2.

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

22 6. By January 1, 2009, after first referring to the most recent national research
23 on nursing home staffing and consulting with representatives of the nursing home
24 industry, labor unions that represent nursing home employees, advocates for elderly
25 and disabled persons, recognized experts with experience in long-term care

BILL

1 reimbursement, economists, the attorney general, the federal centers for medicare
2 and medicaid services, and other interested parties, the department shall submit a
3 report to the governor, and to the chief clerk of each house of the legislature for
4 distribution to the legislature under s. 13.172 (2). The report shall contain all of the
5 following recommendations:

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

8 b. Proposed revised minimum nursing home staffing ratios that minimize
9 additional state costs, maximize access to care, facilitate care of the highest quality,
10 and take into account the levels of care for physical or mental conditions that nursing
11 home residents require.

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

17 **SECTION 27.** 50.065 (2) (am) 2g. of the statutes is created to read:

18 50.065 (2) (am) 2g. Information maintained by the department of corrections
19 in the registry of sex offenders under s. 301.45 (2).

20 **SECTION 28.** 50.065 (2) (am) 2r. of the statutes is created to read:

21 50.065 (2) (am) 2r. Information on persons convicted of crimes as specified
22 under the circuit court automation information system maintained by the Wisconsin
23 court system on its Internet site.

24 **SECTION 29.** 50.065 (2) (b) 1g. of the statutes is created to read:

BILL**SECTION 29**

1 50.065 (2) (b) 1g. Information maintained by the department of corrections in
2 the registry of sex offenders under s. 301.45 (2).

3 **SECTION 30.** 50.065 (2) (b) 2r. of the statutes is created to read:

4 50.065 (2) (b) 2r. Information on persons convicted of crimes as specified under
5 the circuit court automation information system maintained by the Wisconsin court
6 system on its Internet site.

7 **SECTION 31.** 50.09 (title) of the statutes is amended to read:

8 **50.09 (title) Rights of residents in certain facilities and complexes.**

9 **SECTION 32.** 50.09 (1) of the statutes is renumbered 50.09 (1m), and 50.09 (1m)
10 (intro.), (b), (c), (e), (f) 1. and 3., (g), (j) (intro.) and 2. (intro.) and a. and (L), as
11 renumbered, are amended to read:

12 50.09 (1m) ~~RESIDENTS' RIGHTS.~~ (intro.) Every resident in a ~~nursing home or~~
13 ~~community-based residential facility or a complex~~ shall, except as provided in sub.
14 (5), have the right to:

15 (b) Present grievances on the resident's own behalf or others to the facility's
16 staff or administrator of the facility or complex, to public officials or to any other
17 person without justifiable fear of reprisal, and to join with other residents or
18 individuals within or outside of the facility or complex to work for improvements in
19 resident care.

20 (c) Manage the resident's own financial affairs, including any personal
21 allowances under federal or state programs, unless the resident delegates, in
22 writing, ~~such~~ this responsibility to the facility or complex and the facility or complex
23 accepts the responsibility, or unless the resident delegates to someone else of the
24 resident's choosing and that person accepts the responsibility. The resident shall
25 receive, upon written request by the resident or guardian, a written monthly account

BILL

1 of any financial transactions made by the facility or complex under such a delegation
2 of responsibility.

3 (e) Be treated with courtesy, respect and full recognition of the resident's
4 dignity and individuality, by all employees of the facility or complex and licensed,
5 certified, or registered providers of health care and pharmacists with whom the
6 resident comes in contact.

7 (f) 1. Privacy for visits by spouse. If both spouses are residents of the same
8 facility or complex, they shall be permitted to share a room or apartment unless
9 medically contraindicated as documented by the resident's physician in the
10 resident's medical record.

11 3. Confidentiality of health and personal records, and the right to approve or
12 refuse their release to any individual outside the facility or complex, except in the
13 case of the resident's transfer to another facility or complex or as required by law or
14 3rd-party payment contracts and except as provided in s. 146.82 (2) and (3).

15 (g) Not to be required to perform services for the facility or complex that are not
16 included for therapeutic purposes in the resident's plan of care.

17 (j) (intro.) Be transferred or discharged, and be given reasonable advance notice
18 of any planned transfer or discharge, and an explanation of the need for and
19 alternatives to the transfer or discharge. The facility or complex to which the
20 resident is to be transferred must have accepted the resident for transfer, except in
21 a medical emergency or if the transfer or discharge is for nonpayment of charges
22 following a reasonable opportunity to pay a deficiency. No person may be
23 involuntarily discharged for nonpayment under this paragraph if the person meets
24 all of the following conditions:

BILL**SECTION 32**

1 2. (intro.) The funding of his or her care in the ~~nursing home or~~
2 ~~community-based residential~~ facility under s. 49.45 (6m) is reduced or terminated
3 because of one of the following:

4 a. He or she requires a level or type of care ~~which~~ that is not provided by the
5 ~~nursing home or community-based residential~~ facility.

6 (L) Receive adequate and appropriate care within the capacity of the facility
7 or complex.

8 **SECTION 33.** 50.09 (1g) of the statutes is created to read:

9 50.09 (1g) In this section, “complex” means a residential care apartment
10 complex.

11 **SECTION 34.** 50.09 (2), (4) and (5) of the statutes are amended to read:

12 50.09 (2) The department, in establishing standards for ~~nursing homes and~~
13 ~~community-based residential~~ facilities and complexes may establish, by rule, rights
14 in addition to those specified in sub. (1) ~~(1m)~~ for residents in ~~such~~ the facilities or
15 complexes.

16 (4) Each facility or complex shall make available a copy of the rights and
17 responsibilities established under this section and the ~~facility’s~~ rules of the facility
18 or complex to each resident and each resident’s legal representative, if any, at or prior
19 to the time of admission to the facility or complex, to each person who is a resident
20 of the facility or complex, and to each member of the ~~facility’s~~ staff of the facility or
21 complex. The rights, responsibilities, and rules shall be posted in a prominent place
22 in each facility or complex. Each facility or complex shall prepare a written plan and
23 provide appropriate staff training to implement each resident’s rights established
24 under this section.

BILL

1 (5) Rights established under this section shall not, except as determined by the
2 department of corrections, be applicable to residents in such facilities or complexes,
3 if the resident is in the legal custody of the department of corrections and is a
4 correctional client in such a facility or complex.

5 **SECTION 35.** 50.09 (6) (a), (b) and (d) of the statutes are amended to read:

6 50.09 (6) (a) Each facility or complex shall establish a system of reviewing
7 complaints and allegations of violations of residents' rights established under this
8 section. The facility or complex shall designate a specific individual who, for the
9 purposes of effectuating this section, shall report to the administrator.

10 (b) Allegations of violations of such rights by persons licensed, certified, or
11 registered under chs. 441, 446 to 450, 455, and 456 shall be promptly reported by the
12 facility or complex to the appropriate licensing, examining, or affiliated
13 credentialing board and to the person against whom the allegation has been made.
14 Any employee of the facility or complex and any person licensed, certified, or
15 registered under chs. 441, 446 to 450, 455, and 456 may also report such allegations
16 to the board. ~~Such~~ The board may make further investigation and take such
17 disciplinary action, within the board's statutory authority, as the case requires.

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

24 **SECTION 9102. Nonstatutory provisions; aging and long-term care**
25 **board.**

BILL**SECTION 9102**

1 (1) RESIDENTIAL CARE APARTMENT COMPLEX ACTIVITIES. The authorized FTE
2 positions for the board on aging and long-term care are increased by 1.0 PR position
3 on July 1, 2006, to be funded from the appropriation account under section 20.432
4 (1) (gt) of the statutes, as created by this act, for the purpose of performing long-term
5 care ombudsman activities in residential care apartment complexes.

SECTION 9121. Nonstatutory provisions; health and family services.

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

11 (2) NURSING HOME STAFFING STANDARDS; REPORT. By January 1, 2007, the
12 department of health and family services shall report to the legislature in the
13 manner provided under section 13.172 (3) of the statutes and to the governor
14 concerning the status of the department's compliance with the requirements of
15 section 50.04 (2) (e) 3. of the statutes, as created by this act.

(3) ASSESSMENTS ON RESIDENTIAL CARE APARTMENT COMPLEXES; RULES.

16 (a) The department of health and family services shall submit in proposed form
17 the rules required under section 50.034 (9) (e) 2. of the statutes, as created by this
18 act, to the legislative council staff under section 227.15 (1) of the statutes no later
19 than the first day of the 4th month beginning after the effective date of this
20 paragraph.

21 (b) Using the procedure under section 227.24 of the statutes, the department
22 of health and family services may promulgate rules required under section 50.034
23 (9) (e) 2. of the statutes, as created by this act, for the period before the effective date
24
25

BILL

1 of the rules submitted under paragraph (a), but not to exceed the period authorized
2 under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24
3 (1) (a), (2) (b), and (3) of the statutes, the department is not required to provide
4 evidence that promulgating a rule under this paragraph as an emergency rule is
5 necessary for the preservation of the public peace, health, safety, or welfare and is
6 not required to provide a finding of emergency for a rule promulgated under this
7 paragraph.

8 (4) PROPOSAL FOR NURSING HOME QUALITY IMPROVEMENT GRANT PROGRAM. By the
9 first day of the 7th month beginning after the effective date of this subsection, the
10 department of health and family services shall submit to the legislature in the
11 manner provided under section 13.172 (2) of the statutes a proposal for legislation
12 to create a program to provide grants to nursing homes for quality-of-care
13 improvement projects. In creating the proposal, the department of health and family
14 services shall consult with advocates for residents of nursing homes, employees of
15 or contractors for services with nursing homes or representatives of the employees
16 or contractors, nursing home administrators, and experts in long-term care issues.
17 Funding for the proposal required under this subsection must be generated within
18 the nursing home industry and may not include general purpose revenues.

19 **SECTION 9321. Initial applicability; health and family services.**

20 (1) ASSESSMENTS ON RESIDENTIAL CARE APARTMENT COMPLEXES. The treatment of
21 section 50.034 (9) of the statutes first applies to an assessment due from a residential
22 care apartment complex for June 2006.

23 **SECTION 9421. Effective dates; health and family services.** This act takes
24 effect on the day after publication, except as follows:

Basford, Sarah

From: Moran, Christian
Sent: Monday, March 13, 2006 9:51 AM
To: LRB.Legal
Subject: Draft review: LRB 05-0035/4 Topic: Long-term care changes

It has been requested by <Moran, Christian> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-0035/4 Topic: Long-term care changes