



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 02/21/2005 (Per: DAK)



- ☞ The 2005 drafting file for LRB 05-0029/2
- ☞ The 2005 drafting file for LRB 05-0030/1
- ☞ The 2005 drafting file for LRB 05-0032/1
- ☞ The 2005 drafting file for LRB 05-0034/1
- ☞ The 2005 drafting file for LRB 05-1701/1
- ☞ The 2005 drafting file for LRB 05-2109/P1

has been copied/added to the 2005 drafting file for

LRB 05-0035

☞ The attached 2005 draft was incorporated into the new 2005 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2005 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

☞ This cover sheet was added to rear of the original 2005 drafting file. The drafting file was then returned, intact, to its folder and filed.

Pt. 01 of 03

2005 DRAFTING REQUEST

Bill

Received: **08/25/2004**

Received By: **dkennedy**

Wanted: **As time permits**

Identical to LRB:

For: **Peggy Krusick (608) 266-1733**

By/Representing: **Herself**

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

Drafter: **dkennedy**

May Contact: **Board on Aging and Long-Term Car**

Addl. Drafters:

Subject: **Health - facility licensure**

Extra Copies: **RLR**

Submit via email: **YES**

Requester's email: **Rep.Krusick@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Access by BOALTC to residential care apartment complexes; annual assessments on residential care apartment complexes

Instructions:

Same as 03-0290/6

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	dkennedy 08/26/2004	lkunkel 09/03/2004		_____			S&L
/1			rschlue 09/03/2004	_____	Inorthro 09/03/2004		S&L
/2	dkennedy 02/17/2005	wjackson 02/20/2005	rschlue 02/21/2005	_____	Inorthro 02/21/2005		

FE Sent For:

<END>

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/?	dkennedy 08/26/2004	lkunkel 09/03/2004		==== ====			S&L
/1		hwlj 2/17	rschluet 09/03/2004		lnorthro 09/03/2004		

Handwritten signatures and initials are present over the 'Drafting History' table. A large signature is written over the 'Typed' and 'Submitted' columns for version /1. Other initials are visible in the 'Reviewed' column for version /1.

LRB-0029

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Page 2

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/?	dkennedy	/1 Imk 9/1					
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FE Sent For:

Handwritten notes and signatures:
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pb
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Krusick 2005 Aging Initiatives

Ombudsmen in Residential Care Apartment Complexes (AB 644)

- \$12 annual fee for each apartment
- RCAC residents get same rights as residents of nursing homes and CBRFs
- Each complex must post these rights in a prominent place and provide appropriate staff training to implement each resident's rights.

Nursing Home Staffing (AB 192)

- Convert from *hours* per resident day to a *ratios* of caregivers to residents for each work shift
- DHFS reports on:
 - (1) methods nursing homes can use to better recruit and retain caregivers;
 - (2) proposed new minimum nursing home staffing ratios that facilitate the highest quality resident care and maximize access to such care;
 - (3) a proposed new nursing home reimbursement formula that advance caregiver wages and benefits.
- Annual Audit Bureau report for each nursing home on wages, benefits, usage of pool help, staff turnover, total revenue and expenses, staff training, code violations and other related information.

Fit and Qualified (AA2 to AB 842)

- All long term care providers would be held to F & Q standards at initial license application and periodically throughout lifetime of license.
- Financial
 - Fiscal reserves should be sufficient to support a facility's needs for one year. (Currently nursing homes must have 6 months of financial reserves).
 - Regulators allowed to identify and follow links between local facilities and any parent corporations.

Ownership

- Includes all individual and corporate owners, regardless of where they're located.
- Out-of-state corporate owners must have operating unit located in Wisconsin in order to operate a facility.
- Requirements for owners should be created to ensure that they are of good character and professional competence.

Conditional license

- Period of heightened scrutiny increased from 12 to 30 months. Conditional licenses may be extended for only one additional term. (Currently there's no limit on license extensions). Conditional licenses are imposed for quality or fiscal concerns.

Pattern of noncompliance

- Exists when more than 25% of facilities owned by a corporation have fiscal problems or provide substandard care.

Life Lease (AB 920)

- Enhanced CIP II (Community Integration Program) funds follow nursing home resident from facility to community.
 - Currently these enhanced CIP funds are only available if the program participant's nursing home bed is closed. The bill eliminates this requirement.
 - Saves state Medicaid budget (GPR) almost \$700,000 for 2005 b/c community care is about \$33 cheaper a day per recipient.
-

D-NOTE

UPS:
pls, Pw/F

2003 ASSEMBLY BILL 644

November 10, 2003 - Introduced by Representatives KRUSICK, UNDERHEIM, BERCEAU, BOYLE, GUNDERSON, HAHN, HINES, JESKEWITZ, KRAWCZYK, OLSEN, OTT, POPE-ROBERTS, SHILLING, TAYLOR, VAN ROY and ZEPNICK, cosponsored by Senators ROESSLER, CARPENTER and RISSER. Referred to Committee on Aging and Long-Term Care.

REGEN

1 **AN ACT to renumber and amend** 50.09 (1); **to amend** 50.09 (title), 50.09 (2),
2 (4) and (5) and 50.09 (6) (a), (b) and (d); and **to create** 16.009 (1) (em) 7., 20.432
3 (1) (gt), 50.034 (3) (e), 50.034 (9) and 50.09 (1g) of the statutes; **relating to:**
4 authorizing access by the long-term care ombudsman or his or her
5 representative to a client or resident in a residential care apartment complex,
6 imposing an annual assessment on occupied apartments of residential care
7 apartment complexes, expanding rights of residents of facilities to include
8 residents of residential care apartment complexes, requiring posting of a
9 notice, requiring the exercise of rule-making authority, and making an
10 appropriation.

Analysis by the Legislative Reference Bureau

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 to be a nursing home, a community-based residential facility, a place in which care is provided under a

ASSEMBLY BILL 644

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.

Lastly, 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 ~~must be paid~~ annually by the complex to DHFS ~~by July 1~~ based on occupied apartments for the complex for the preceding June. The assessment must be enforced and collected by DHFS and credited to an appropriation of program revenues for expenditure by the Board on Aging and Long-Term Care for activities under the Long-Term Care Ombudsman Program in residential care apartment complexes.

The bill also 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.

Finally, 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.

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. 16.009 (1) (em) 7. of the statutes is created to read:

2 ✓ 16.009 (1) (em) 7. A residential care apartment complex, as defined in s. 50.01

3 (1d). ✓

The assessment is

beginning July 1, 2006

The complex must pay

5

ASSEMBLY BILL 644

1 **SECTION 2.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
2 the following amounts for the purposes indicated:

2005-06 2006-07 *
~~2003-04~~ ~~2004-05~~

X:ch20:
head

3
4 ✓ **20.432 Board on aging and long-term care**

5 ✓ (1) IDENTIFICATION OF THE NEEDS OF THE AGED AND
6 DISABLED

7 (gt) Activities in residential care

8 apartment complexes PR A -0- 48,900

9 **SECTION 3.** 20.432 (1) (gt) of the statutes is created to read:

10 20.432 (1) (gt) *Activities in residential care apartment complexes.* The amounts
11 in the schedule for long-term care ombudsman program activities in residential care
12 apartment complexes. All moneys received under s. 50.034 (9) shall be credited to
13 this appropriation account.

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

15 50.034 (3) (e) Post in a conspicuous location in the residential care apartment
16 complex a notice, provided by the board on aging and long-term care, of the name,
17 address, and telephone number of the Long-Term Care Ombudsman Program under
18 s. 16.009 (2) (b).

19 **SECTION 5.** 50.034 (9) of the statutes is created to read:

20 50.034 (9) **ASSESSMENT ON OCCUPIED APARTMENTS.** (a) In this subsection,
21 "complex" means a certified or registered residential care apartment complex.

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

ASSEMBLY BILL 644

SECTION 5

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

7 (d) Sections 77.59 (1) to (5), (6) (intro.), (a), and (c), and (7) to (10), 77.60 (1) to
8 (7), (9), and (10), 77.61 (9) and (12) to (14), and 77.62, as they apply to the taxes under
9 subch. III of ch. 77, apply to the assessment under this subsection.

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

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

15 (f) 1. An affected complex may contest an action by the department under this
16 subsection by submitting a written request for a hearing to the department within
17 30 days after the date of the department's action.

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

20 SECTION 6. 50.09 (title) of the statutes is amended to read:

21 **50.09 (title) Rights of residents in certain facilities and complexes.**

22 SECTION 7. 50.09 (1) of the statutes is renumbered 50.09 (1m), and 50.09 (1m)
23 (intro.), (b), (c), (e), (f) 1. and 3., (g), (j) (intro.) and 2. (intro.) and a. and (L), as
24 renumbered, are amended to read:

ASSEMBLY BILL 644

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

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

9 (c) Manage ^{the} resident's own financial affairs, including any personal
 10 allowances under federal or state programs, unless the resident delegates, in
 11 writing, ~~such~~ responsibility to the facility or complex and the facility or complex
 12 accepts the responsibility ~~or~~ unless the resident delegates to someone else of the
 13 resident's choosing and that person accepts the responsibility. The resident shall
 14 receive, upon written request by the resident or guardian, a written monthly account
 15 of any financial transactions made by the facility or complex under such a delegation
 16 of responsibility.

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

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

ASSEMBLY BILL 644

1 3. Confidentiality of health and personal records, and the right to approve or
2 refuse their release to any individual outside the facility or complex, except in the
3 case of the resident's transfer to another facility or complex or as required by law or
4 3rd-party payment contracts and except as provided in s. 146.82 (2) and (3).

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

7 (j) (intro.) Be transferred or discharged, and be given reasonable advance notice
8 of any planned transfer or discharge, and an explanation of the need for and
9 alternatives to the transfer or discharge. The facility or complex to which the
10 resident is to be transferred must have accepted the resident for transfer, except in
11 a medical emergency or if the transfer or discharge is for nonpayment of charges
12 following a reasonable opportunity to pay a deficiency. No person may be
13 involuntarily discharged for nonpayment under this paragraph if the person meets
14 all of the following conditions:

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

18 a. He or she requires a level or type of care ~~which~~ ^{that} is not provided by the ~~nursing~~
19 ~~home or community-based residential~~ facility.

20 (L) Receive adequate and appropriate care within the capacity of the facility
21 or complex. ✓

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

23 50.09 (1g) In this section, "complex" means a residential care apartment
24 complex. ✓

25 **SECTION 9.** 50.09 (2), (4) and (5) of the statutes are amended to read:

ASSEMBLY BILL 644

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

5 (4) Each facility or complex shall make available a copy of the rights and
 6 responsibilities established under this section and the ~~facility's~~ rules of the facility
 7 or complex to each resident and each resident's legal representative, if any, at or prior
 8 to the time of admission to the facility or complex, to each person who is a resident
 9 of the facility or complex, and to each member of the ~~facility's~~ staff of the facility or
 10 complex. The rights, responsibilities and rules shall be posted in a prominent place
 11 in each facility or complex. Each facility or complex shall prepare a written plan and
 12 provide appropriate staff training to implement each resident's rights established
 13 under this section. ✓

14 (5) Rights established under this section shall not, except as determined by the
 15 department of corrections, be applicable to residents in ~~such~~ facilities or complexes,
 16 if the resident is in the legal custody of the department of corrections and is a
 17 correctional client in ~~such a~~ ^{plain} facility or complex. ✓

18 **SECTION 10.** 50.09 (6) (a), (b) and (d) of the statutes are amended to read:

19 50.09 (6) (a) Each facility or complex shall establish a system of reviewing
 20 complaints and allegations of violations of residents' rights established under this
 21 section. The facility or complex shall designate a specific individual who, for the
 22 purposes of effectuating this section, shall report to the administrator.

23 (b) Allegations of violations of such rights by persons licensed, certified or
 24 registered under chs. 441, 446 to 450, 455 and 456 shall be promptly reported by the
 25 facility or complex to the appropriate licensing, examining or affiliated credentialing

ASSEMBLY BILL 644

1 board and to the person against whom the allegation has been made. Any employee
 2 of the facility or complex and any person licensed, certified or registered under chs.
 3 441, 446 to 450, 455 and 456 may also report such allegations to the board. ~~Such~~ The
 4 board may make further investigation and take such disciplinary action, within the
 5 board's statutory authority, as the case requires. ✓

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

12 **SECTION 11. Nonstatutory provisions; board on aging and long-term**
 13 **care.**

14 (1) RESIDENTIAL CARE APARTMENT COMPLEX ACTIVITIES. The authorized FTE
 15 positions for the board on aging and long-term care are increased by 1.0 PR position
 16 on July 1, ~~2004~~ ²⁰⁰⁶, to be funded from the appropriation account under section 20.432
 17 (1) (gt) of the statutes, as created by this act, for the purpose of performing long-term
 18 care ombudsman activities in residential care apartment complexes.

19 **SECTION 12. Nonstatutory provisions; health and family services.**

20 (1) ASSESSMENTS ON RESIDENTIAL CARE APARTMENT COMPLEXES; RULES.

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

ASSEMBLY BILL 644

1 (b) Using the procedure under section 227.24 of the statutes, the department
 2 of health and family services may promulgate rules required under section 50.034
 3 (9) (e) 2. of the statutes, as created by this act, for the period before the effective date
 4 of the rules submitted under paragraph (a), but not to exceed the period authorized
 5 under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24
 6 (1) (a), (2) (b), and (3) of the statutes, the department is not required to provide
 7 evidence that promulgating a rule under this paragraph as an emergency rule is
 8 necessary for the preservation of the public peace, health, safety, or welfare and is
 9 not required to provide a finding of emergency for a rule promulgated under this
 10 paragraph.

SECTION 13. Initial applicability.

12 (1) ASSESSMENTS ON RESIDENTIAL CARE APARTMENT COMPLEXES. The treatment of
 13 section 50.034 (9) of the statutes first applies to an assessment due from a residential
 14 care apartment complex for June ~~2004~~.

2006

SECTION 14. Effective date.

15 (1) This act takes effect on ~~July~~ 1, ~~2004~~.

June

2006

16

17

(END)

D-NOTE ✓

D-NOTE

To Representative Krusick:

¶ I have in this draft changed the bill's
effective date to June 1, 2006, so as to provide
residential care apartment complexes the
ability to meet the July 1, 2006, deadline
for their assessments. If you feel they
should be given even more time, please
let me know and I will revise.

DAK

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

LRB-0029/1dn
DAK:lmk&wlj:rs

September 3, 2004

To Representative Krusick:

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



BY 2/23, please
State of Wisconsin
2005 - 2006 LEGISLATURE

D-NOTE

LRB-0029/12
DAK:lmk&wlj:12

2005 BILL

1 ^{Regen} AN ACT *to renumber and amend* 50.09 (1); *to amend* 50.09 (title), 50.09 (2),
 2 (4) and (5) and 50.09 (6) (a), (b) and (d); and *to create* 16.009 (1) (em) 7., 20.432
 3 (1) (gt), 50.034 (3) (e), 50.034 (9) and 50.09 (1g) of the statutes; **relating to:**
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as

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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.

Lastly, 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. ~~The assessment must be enforced and collected~~ ^{by DHFS and} credited to an appropriation of program revenues for expenditure by the Board on Aging and Long-Term Care for activities under the Long-Term Care Ombudsman Program in residential care apartment complexes.

The bill also 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.

Finally, 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.

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

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- 2 16.009 (1) (em) 7. A residential care apartment complex, as defined in s. 50.01
- 3 (1d).

BILL

1 (c) By July 1 annually, a complex shall submit to the department the amount
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21 **50.09 (title) Rights of residents in ~~certain~~ facilities and complexes.**

22 **SECTION 7.** 50.09 (1) of the statutes is renumbered 50.09 (1m), and 50.09 (1m)
23 (intro.), (b), (c), (e), (f) 1. and 3., (g), (j) (intro.) and 2. (intro.) and a. and (L), as
24 renumbered, are amended to read:

BILL

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

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

9 (c) Manage the resident's own financial affairs, including any personal
10 allowances under federal or state programs, unless the resident delegates, in
11 writing, ~~such~~ this responsibility to the facility or complex and the facility or complex
12 accepts the responsibility, or unless the resident delegates to someone else of the
13 resident's choosing and that person accepts the responsibility. The resident shall
14 receive, upon written request by the resident or guardian, a written monthly account
15 of any financial transactions made by the facility or complex under such a delegation
16 of responsibility.

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

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

BILL**SECTION 7**

1 3. Confidentiality of health and personal records, and the right to approve or
2 refuse their release to any individual outside the facility or complex, except in the
3 case of the resident's transfer to another facility or complex or as required by law or
4 3rd-party payment contracts and except as provided in s. 146.82 (2) and (3).

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

7 (j) (intro.) Be transferred or discharged, and be given reasonable advance notice
8 of any planned transfer or discharge, and an explanation of the need for and
9 alternatives to the transfer or discharge. The facility or complex to which the
10 resident is to be transferred must have accepted the resident for transfer, except in
11 a medical emergency or if the transfer or discharge is for nonpayment of charges
12 following a reasonable opportunity to pay a deficiency. No person may be
13 involuntarily discharged for nonpayment under this paragraph if the person meets
14 all of the following conditions:

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

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

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

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

23 50.09 (1g) In this section, "complex" means a residential care apartment
24 complex.

25 **SECTION 9.** 50.09 (2), (4) and (5) of the statutes are amended to read:

BILL

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

5 (4) Each facility or complex shall make available a copy of the rights and
6 responsibilities established under this section and the ~~facility's~~ rules of the facility
7 or complex to each resident and each resident's legal representative, if any, at or prior
8 to the time of admission to the facility or complex, to each person who is a resident
9 of the facility or complex, and to each member of the ~~facility's~~ staff of the facility or
10 complex. The rights, responsibilities, and rules shall be posted in a prominent place
11 in each facility or complex. Each facility or complex shall prepare a written plan and
12 provide appropriate staff training to implement each resident's rights established
13 under this section.

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

18 **SECTION 10.** 50.09 (6) (a), (b) and (d) of the statutes are amended to read:

19 50.09 (6) (a) Each facility or complex shall establish a system of reviewing
20 complaints and allegations of violations of residents' rights established under this
21 section. The facility or complex shall designate a specific individual who, for the
22 purposes of effectuating this section, shall report to the administrator.

23 (b) Allegations of violations of such rights by persons licensed, certified, or
24 registered under chs. 441, 446 to 450, 455, and 456 shall be promptly reported by the
25 facility or complex to the appropriate licensing, examining, or affiliated

BILL

1 credentiaing board and to the person against whom the allegation has been made.
2 Any employee of the facility or complex and any person licensed, certified, or
3 registered under chs. 441, 446 to 450, 455, and 456 may also report such allegations
4 to the board. ~~Such~~ The board may make further investigation and take such
5 disciplinary action, within the board's statutory authority, as the case requires.

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

12 **SECTION 11. Nonstatutory provisions; board on aging and long-term**
13 **care.**

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

19 **SECTION 12. Nonstatutory provisions; health and family services.**

20 (1) ASSESSMENTS ON RESIDENTIAL CARE APARTMENT COMPLEXES; RULES.

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

BILL

1 (b) Using the procedure under section 227.24 of the statutes, the department
2 of health and family services may promulgate rules required under section 50.034
3 (9) (e) 2. of the statutes, as created by this act, for the period before the effective date
4 of the rules submitted under paragraph (a), but not to exceed the period authorized
5 under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24
6 (1) (a), (2) (b), and (3) of the statutes, the department is not required to provide
7 evidence that promulgating a rule under this paragraph as an emergency rule is
8 necessary for the preservation of the public peace, health, safety, or welfare and is
9 not required to provide a finding of emergency for a rule promulgated under this
10 paragraph.

SECTION 13. Initial applicability.

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

SECTION 14. Effective date.

16 (1) This act takes effect on June 1, 2006.

17

(END)

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2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

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SECTION ~~9421~~ [#] 21. Effective dates ~~of health and family services~~

(1) RESIDENTIAL CARE APARTMENT COMPLEXES. The treatment of sections 16.009
(1) (em) 7., 20.005 (3) (schedule), 20.432 (1) (gt), 50.034 (3) (e) and (9), 50.09 (title),
50.09 (1), (1g), (2), (4), (5), and (6) (a), (b), and (d) of the statutes and the renumbering
and amendment of sections 50.09 (1m) (intro.), (b), (c), (e), (f) 1. and 3., (g), (j) (intro.)
and 2. (intro.) and a. and (L) of the statutes ^{takes} take effect on June 1, 2006.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0029/2dn
DAK:land&wj:ns

Wlj

To Christian Moran:

This redraft makes the changes in the effective date section that we talked about on February 17, 2005.

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

LRB-0029/2dn
DAK:wj:rs

February 21, 2005

To Christian Moran:

This redraft makes the changes in the effective date section that we talked about on February 17, 2005.

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