

2007 DRAFTING REQUEST

Bill

Received: **10/31/2007**

Received By: **rryan**

Wanted: **As time permits**

Identical to LRB:

For: **Kitty Rhoades (608) 266-1526**

By/Representing: **Jennifer Western**

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

Drafter: **rryan**

May Contact:

Adl. Drafters:

Subject: **Health - miscellaneous**

Extra Copies: **DAK**

Submit via email: **YES**

Requester's email: **Rep.Rhoades@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Personal care worker background checks

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/1	rryan 11/07/2007	bkraft 11/13/2007	pgreensl 11/26/2007	_____	sbasford 11/26/2007	cduerst 01/10/2008	
	rryan 11/13/2007	bkraft 11/20/2007		_____			

FE Sent For: **N/A**

<END>

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Jessica Karlise "

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1?	rryan	<i>1 bjk "</i>	<i>11/26 PY</i>	<i>11/26 PY</i>			

FE Sent For:

<END>

LRB-3379

Ryan, Robin

From: Western, Jennifer
Sent: Tuesday, October 30, 2007 3:57 PM
To: Ryan, Robin
Cc: Karls, Jessica
Subject: Drafting Request

Hi Robin,

This is just a follow up to my voicemail. I am writing to request a legislative draft. First let me explain some of the background that leads to this request:

Background:

Kitty was contacted by a constituent whose son is developmentally disabled and participates in the CIP program. A personal care worker was hired through an employment agency and placed with her son. (I believe the pcw was a live-in, but am not sure.) The employment agency did a background check, which is required, and must not have determined that anything on her record arose to a level of being "substantially related to the job." Her record included various incidents for example in 2004, she was accused of obtaining prescription drugs via fraud. However this offense was dismissed through deferred prosecution, which seems to mean that since she didn't have a record at that time, the court agreed to dismiss the charges in exchange for community service. In 2005, the pcw had at least four convictions of misdemeanor theft of property worth less than \$2,500. This pcw was placed in the home of the constituent's son. Recently, the pcw told the mother, who also happens to be an RN, that she disposed of the son's Vicodin, because it was expired. As an RN, the constituent knew the Vicodin had not expired and told the pcw that in any case, the medicine should not have been disposed of without authorization or at least someone there to witness it. Then the mother noticed behavior that was not quite right with the pcw for example, sleeping through alarms for hours on end, etc. Then the mother found out about the pcw's criminal record. She also found out subsequently that the pcw is on a first name basis with the local PD. The constituent knows that the agency who hired the pcw did a background check and had the results of the background check, but did not find them to substantially relate to the job. (The agency said as much and also said they could not discriminate against those who have a criminal record that does not relate to the job.) The agency has since taken the pcw out of that home or fired her - I am not sure which. However, as in FYI the pcw is still in "good standing" as a registered pcw for DHFS run facilities and placements.

The constituent called Kitty, and explained she is not mad at the state; she is mad at the agency that did the background check. Why weren't the results of the background check disclosed to her?

The Request:

What I am looking to get drafted as a legislative proposal, is for the results of background checks on personal care workers who are placed in a residence through a state program such as CIP, COP, other state program, or privately, to be disclosed to either the person receiving care if mentally aware, or their guardian.

I realize that with the passage of Act 351 last session, there may also need to be some reinstatement of background checks for those pcws who are placed in residences. That would be fine - but only for pcws who are placed in residences. We don't want to undo the effect of Act 351 for those pcws that are working in facilities. If you could make the periodic background check for these pcws 2 years, that would be great.

I have been working with Jessica Karls of Leg Council on some of the background regarding this case. Feel free to call her or me with any questions.

Thank you for your help.

Jennifer Western
Office of Kitty Rhoades
State Representative
30th Assembly District

*Call to Jennifer 11/6/07:
PCWA to disclose any info. learned in
background check, not just criminal
history*

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

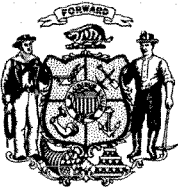
Legal (608-266-3561)

LRB

LRB-3379

Call from Jenny 11/12/07

don't require agency to divulge
license/certification info regarding
a personal care worker



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-3379/1

RLR:.....

Lbjk

In 11/13/07

2007 BILL

SA ✓
X-ref ✓

→ (D-N)

gen. cat.

1 AN ACT ...; relating to: background checks for personal care workers. ✓

Analysis by the Legislative Reference Bureau

Under current law, an entity that provides direct care or treatment services must obtain certain background information regarding prospective caregivers. The background information includes criminal history and history of child abuse or neglect, abuse or neglect of a client, misappropriation from a client, and denial of licensing or certification to serve as a caregiver entity. Every four years the entity must obtain updated background information regarding its caregivers. ✓

This bill provides that a personal care worker agency that employs or contracts with a caregiver to work in a private residence must disclose to the client, or to his or her guardian, any information the agency obtains concerning the caregiver's criminal history or history of child abuse or neglect, abuse or neglect of a client, misappropriation from a client, or denial of licensing or certification to serve as a caregiver entity. The bill also requires personal care worker agencies to obtain updated background information regarding its caregivers every two years. ✓

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

2 SECTION 1. 50.065 (2) (e) of the statutes is created to read:

3 ✓ 50.065 (2) (e) A personal care worker agency that employs or contracts with a
4 caregiver to serve as a personal care worker in a private residence shall disclose to

BILL

SECTION 1

1 the client, or to his or her guardian, information regarding the caregiver that is
2 obtained by the personal care worker agency under par. (b) 1., 2., 4., or 5. or (bb).

3 **SECTION 2.** 50.065 (3) (b) of the statutes is renumbered 50.065 (3) (b) 1. and
4 amended to read:

5 **50.065 (3) (b) 1.** Every Except as provided in subd. 2., every 4 years or at any
6 other time within that period that an entity considers appropriate, the entity shall
7 request the information specified in sub. (2) (b) 1. to 5. for all caregivers of the entity.

8 History: 1997 a. 27, 105, 237; 1999 a. 9, 32, 56, 185, 186; 2001 a. 109; 2005 a. 25, 184, 277, 351; s. 13.93 (2) (c)

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

9 **50.065 (3) (b) 2.** A personal care worker agency shall request the information
10 specified in sub. (2) (b) 1. to 5. for all personal care workers of the agency every 2
11 years.

12 (END)

D-note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3379/1dn

RLR:.....

Lbjk

Date

Jennifer Western:

You may wish to check with DHFS to determine what the federal rules are on sharing information obtained from the FBI. If I remember correctly, s. 50.065 (2) (br), stats., which sunset on September 30, 2007, was drafted to facilitate a pilot program on obtaining FBI information for background checks. This section placed limits on using information obtained from the FBI.

Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.wisconsin.gov

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

LRB-3379/1dn
RLR:bjk:pg

November 26, 2007

Jennifer Western:

You may wish to check with DHFS to determine what the federal rules are on sharing information obtained from the FBI. If I remember correctly, s. 50.065 (2) (br), stats., which sunset on September 30, 2007, was drafted to facilitate a pilot program on obtaining FBI information for background checks. This section placed limits on using information obtained from the FBI.

Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.wisconsin.gov

Duerst, Christina

From: Western, Jennifer
Sent: Thursday, January 10, 2008 4:07 PM
To: LRB.Legal
Subject: Draft Review: LRB 07-3379/1 Topic: Personal care worker background checks

Please Jacket LRB 07-3379/1 for the ASSEMBLY.

Thank you!

Jennifer Western
Office of Kitty Rhoades
State Representative
30th Assembly District