



**2007 DRAFTING REQUEST**

**Bill**

Received: **12/19/2006**

Received By: **rryan**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Milioto**

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

Drafter: **rryan**

May Contact:

Addl. Drafters:

Subject: **Health - long-term care**

Extra Copies: **DAK**

Submit via email: **NO**

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**Pre Topic:**

DOA:.....Milioto, BB0244 -

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**Topic:**

Long-term care facilities; Family Care; information, referral, and assessment requirements

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**Instructions:**

See Attached

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**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>
/?				_____			S&L
/P1	rryan 01/09/2007	wjackson 01/11/2007	nnatzke 01/11/2007	_____	sbasford 01/11/2007		S&L
	rryan 01/25/2007	lkunkel 01/25/2007		_____			
/P2	rryan 01/29/2007	lkunkel 01/29/2007	jfrantze 01/25/2007	_____	sbasford 01/25/2007		S&L
/P3	rryan 01/30/2007	wjackson 01/30/2007	jfrantze 01/29/2007	_____	sbasford 01/29/2007		S&L
/P4			sherritz	_____	cduerst		

Vers.      Drafted      Reviewed      Typed      Proofed      Submitted      Jacketed      Required

01/31/2007 \_\_\_\_\_ 01/31/2007

FE Sent For:

**<END>**

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			sh 1/31	sh/jff 1/31			

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/P2			jfrantze 01/25/2007		sbasford 01/25/2007		

/p3/mk 1/29

J. Selb  
11 29  
<END>

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/?				_____			S&L
/P1	rryan 01/09/2007	wjackson 01/11/2007	nmatzke 01/11/2007	_____	sbasford 01/11/2007		

FE Sent For:

*p2/mk/25*  
*1/25*  
*END*  
*1/25*

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/?	rryan	/PI WJ 1/11	mm 1/11	mm/jf 1/11			S&L

FE Sent For:

<END>

### 2007-09 Budget Bill Statutory Language Drafting Request

- Topic: **Preadmission Consultation Requirements**
- Tracking Code: **BBO244**
- SBO team: Health
- SBO analyst: **Steve Milioto**
  - Phone: 266-8593
  - Email: Steve.Milioto@Wisconsin.gov
- Agency acronym: **DHFS**
- Agency number: **435**

Please revise current law as it applies to Preadmission Consultation Requirements for Family Care and waiver counties. (See attached paper.)

Please draft this request as a draft separate from the prior two Family Care drafts.

Priority: Medium

## Preadmission Consultation Requirements

### Current Language

Current law contains provisions in Family Care and the COP, COP-Waiver, and CIP II programs that are intended to encourage individuals to make more informed choices about long term care. These provisions, which vary across programs and care settings, require pre-admission consultation, assessments, sharing information about long term care options with clients, and referrals to Aging and Disability Resource Centers (ADRCs) or county agencies.

### Proposed Change

The Department proposes to amend the statutes as follows. The proposed changes are described in detail in the attached table.

*In Family Care counties, the changes would:*

- Eliminate the requirement that *hospitals* refer patients to the ADRC, but require better information sharing and discharge planning coordination between hospitals and ADRCs. no draft
- Continue to require *CBRFs* and *RCACs* to provide information on ADRCs to prospective clients and to refer them to the ADRC. In addition, indicate that DHFS will specify the information to be provided, and that the information should be provided at the time the individual first receives written material about the facility.
- Maintain current law information and referral requirements for *nursing homes*.  
No draft Administratively, the Department would require ADRCs to establish MOUs with nursing homes regarding discharge planning.
- Eliminate current law information and referral requirements for *adult family homes* (AFHs).

*In waiver counties, the changes would:*

- Eliminate the requirement that private pay *CBRF* residents undergo a COP assessment with the county prior to admission to the CBRF if they wish to qualify for COP, COP-Waiver, or CIP II funding at a later date. In addition, establish the same types of information sharing and referral requirements as in Family Care counties.

## Background and Rationale for the Change

### *Family Care Counties*

1. In Family Care counties, hospitals are required to refer individuals who are elderly or have physical or developmental disabilities and have long term care needs to the Aging and Disability Resource Center. This provision was intended to enable ADRCs to provide information about long term care options to patients at discharge. In theory, the provision would have ensured that patients would make informed decisions about where to live after leaving the hospital, which would be consistent with their preferences and be cost effective. In actual practice, hospitals typically referred all patients to the ADRC, regardless of whether they had long term care needs. As a result, ADRCs received an overwhelming number of referrals, which they could not respond to, and the Department stopped enforcing the requirement in 2000. The proposed change would replace the referrals with a requirement that hospitals and ADRCs cooperate more closely regarding discharge planning and that hospitals provide information about ADRC services to patients at discharge.
2. CBRFs and RCACs in Family Care counties are required to provide information about ADRC services to prospective clients and to refer them to the ADRC, within a timeframe specified by the Department. The Department's current administrative rules require the facility to make the referral when it first provides an assessment of the person's needs for nursing or residential services, or at the time that it accepts an application for admission from the person. The Department proposes to amend the statutes to specify that the information to be provided by the facility will be supplied by the Department and that the facility shall provide the information and make the referral when it provides a prospective client with written materials about the facility. The change is intended to ensure the prospective resident is informed of the ADRC sooner, so that he or she can take advantage of ADRC services before the decision is made to become a resident of the facility.
3. As a further measure, the Department proposes to require CBRFs through rule to include language in their admission agreements that explains public funding for long term care in Wisconsin and informs the applicant that he or she will need to contact the ADRC to determine whether public funding is available for care in that particular facility.
4. Nursing homes in Family Care counties are subject to the same information sharing and referral requirements as CBRFs and RCACs. The Department's proposal would maintain current law requirements for nursing homes, but require ADRCs through contract to establish MOUs with nursing homes in their service areas to coordinate discharge planning for members of ADRC target groups. In addition, administratively, the Department would provide guidance to ADRCs on which referred individuals they should respond to. As one example, the Department would not require the ADRC to contact individuals who are too ill to participate in counseling.
5. The Department proposes a different approach for CBRFs and RCACs than for nursing homes, to further different goals. For CBRFs and RCACs, the goal is to enable private pay individuals to make more informed choices for their long term care needs prior to admission, to avoid their needlessly entering a costly facility, where they will quickly exhaust their resources and become consumers of the publicly funded long term care system. For nursing homes, the primary goal is

to inform residents who have recently entered a nursing home about the availability of ADRC services, to assist them in identifying long term care options.

6. The Department proposes eliminating current information sharing and referral requirements for adult family homes. AFHs primarily serve publicly funded long term care residents, with very few private pay clients. For that reason, there is little need for information and referral requirements to help private pay clients understand their long term care options. As a result, the current requirements may be eliminated to ease the regulatory burden on AFHs.

#### *Waiver Counties*

7. In the COP, COP-W, and CIP II programs, private pay residents of a community based residential facility (CBRF) who exhaust their private resources are ineligible to receive services through those programs in that facility unless they underwent an assessment of their care needs with the county prior to admission. The statutes also require CBRFs to prepare and provide each private pay individual, at the time of admission, a "statement of financial condition" that estimates the date by which the individual's resources would be depleted if he or she continues to reside in the facility. The statement must also indicate that public funding may not be available to the resident at that date.
8. The Legislature established the pre-admission assessment requirement as a way to encourage individuals to make more informed choices about long term care. The provision was intended to address the perceived problem that individuals would enter costly CBRFs as private pay clients without understanding 1) how quickly they would spend down their resources and 2) whether they would be able to access COP or Waiver funding to continue to live in that CBRF once they have exhausted their own funds. Through the assessment, counties would be able to advise clients whether they would be functionally eligible for COP or Waiver funding, how quickly they would need public funding, how soon they could access COP or Waiver funding, and whether less costly long term care arrangements would be available that would extend their personal resources further.
9. Because of the confusing nature of the provision, and uneven compliance, the requirement causes many people to be disqualified from the COP, COP-Waiver, and CIP II program without accomplishing the goal of facilitating more informed long term care choices. Some CBRFs do not inform applicants of the assessment requirement. Larger CBRFs that are ineligible to receive COP and COP- W funding in particular have no incentive to encourage applicants to get the assessment. Many individuals contact CBRFs seeking immediate admission because they are in urgent need of long term care services. Even if informed of the requirement, these individuals cannot wait to obtain the assessment or would not be inclined to "comparison shop" for other care options if they were assessed. Other applicants may view the requirement as a bureaucratic formality and do not fully appreciate that they would be denied services in the future without the assessment. In addition, CBRFs evaluate new residents to determine what level of care they will require at the facility. Many CBRFs refer to this evaluation as a "pre-admission assessment," which often causes residents to assume incorrectly that they have received the county assessment.
10. For these reasons, the Department proposes to eliminate the pre-admission assessment requirement in waiver counties, and instead require CBRFs to follow the same information

sharing and referral requirements as CBRFs in Family Care counties. Under the proposal, CBRFs must provide information on publicly funded long term care programs to all prospective residents and also refer them to the ADRC (if one exists in the county) or to the county long term support agency. The changes are intended to replace the ineffective and inequitable CBRF pre-admission assessment requirements with more effective ways of providing information on long term care options to consumers. In addition, because the new requirements would be consistent with current requirements in Family Care, they would provide a seamless transition for both consumers and providers as Family Care is extended statewide.

**Desired Effective Date:** Upon passage  
**Agency:** DHFS  
**Agency Contact:** Andy Forsaith  
**Phone:** 266-7684

## Proposed Changes to Pre admission Consultation and Referral Requirements

Provider	Family Care Counties*		Waiver Counties	
	Current Law	Proposed Requirements	Current Law	Proposed Requirements
<b>Hospital</b>	<ul style="list-style-type: none"> <li>Hospitals must refer all patients in FC target groups with LTC needs to the ADRC</li> </ul>	<ul style="list-style-type: none"> <li>Through the ADRC contract, require an MOU between hospitals and ADRCs regarding coordination on discharge planning for members of ADRC target groups</li> <li>Require hospital discharge planners to provide information about ADRC options counseling services to patients who are members of ADRC target groups</li> <li>Do not require hospitals to make referrals</li> </ul>	No Requirements	No Requirements
<b>Nursing Homes</b>	<ul style="list-style-type: none"> <li>Require facilities to provide information to prospective residents about ADRC services, the Family Care benefit, and the availability of the functional and financial screen.</li> <li>Require facilities to refer to the ADRC, within a timeframe established by DHFS, all individuals seeking admission, if</li> </ul>	<ul style="list-style-type: none"> <li>Maintain current information and referral requirements</li> <li>Through the ADRC contract, require ADRCs to establish MOUs with nursing homes and ADRCs regarding coordination on discharge planning for members of ADRC target groups.</li> </ul>	No Requirements	No Requirements

Family Care Counties*		Waiver Counties	
Provider	Current Law	Proposed Requirements	Current Law
	<p>they have LTC needs. Under current rules, the information must be provided when the facility first assesses the individual's care needs or when it accepts an application for admission.</p>	<ul style="list-style-type: none"> <li>Through the ADRC contract, require ADRC to contact people who have been referred in accordance with guidelines to be developed by DHFS. These guidelines will provide some flexibility for ADRCs to determine when and how to respond.</li> </ul>	
<b>CBRFs</b>	<p>Same as nursing homes</p>	<ul style="list-style-type: none"> <li>Maintain current information and referral requirements, with three changes:               <ol style="list-style-type: none"> <li>The Department will specify the information to be provided to the prospective resident</li> <li>The information must be provided and referral made when the facility first provides written materials to the individual, instead of when the facility first assesses the individual's care needs or receives his or her application.</li> <li>Through rule, require that CBRF admission agreements contain</li> </ol> </li> </ul>	<ul style="list-style-type: none"> <li>Private pay residents must undergo a pre admission assessment conducted by the county long term services agency before admission to the CBRF in order to qualify for COP/COP-W/CIP II in that facility at a later date. CBRFs must inform prospective residents of this requirement.</li> <li>Eliminate pre admission assessment requirements.</li> <li>Establish the same informational and referral requirements as in Family Care counties. For counties without ADRCs, CBRFs must refer people to the appropriate county long term care agency for information.</li> </ul>

*want in state*

Provider	Family Care Counties*		Waiver Counties	
	Current Law	Proposed Requirements	Current Law	Proposed Requirements
		language about public funding for LTC works in Wisconsin and informs the applicant that, in order to know whether public funding is available in a particular facility, he/she will need to contact the ADRC.		
<b>RCACs</b>	Same as nursing homes	Same as CBRFs	No Requirements	No Requirements
<b>Adult Family Homes</b>	Same as nursing homes	Eliminate all requirements	No Requirements	No Requirements

\*Family Care counties are those counties where the Family Care benefit is available. Counties where there is an ADRC but no care management organization are considered waiver counties under this proposal.

**Ryan, Robin**

---

**From:** Forsaith, Andrew C - DHFS  
**Sent:** Wednesday, January 03, 2007 2:47 PM  
**To:** Milioto, Steve - DOA  
**Cc:** Ryan, Robin  
**Subject:** Re: Draft Question

Steve -- Sorry -- we weren't that clear on that point in our materials. We do not want any provisions in statute requiring ADRCs to enter into MOUs with nursing homes. We will impose that requirement as part of the Department's contracts with ADRCs. Also, we do not want stat language requiring nursing homes to enter into them. We're hoping the nursing homes will cooperate with the ADRC voluntarily. Please let me know if you have more questions.

>>> "Milioto, Steve - DOA" <steve.milioto@wisconsin.gov> 01/03/07 1:56 PM >>>  
Hi Andy --

Robin Ryan had a question regarding the preadmission consultations changes you submitted. As I understand Robin's question, do you want very specific language in the statutes directing you to require ADRCs to enter into MOUs with nursing homes? And do you want nursing homes to have any flexibility in their ability to enter into these MOUs??

Please advise. Best, Steve

**Ryan, Robin**

**From:** Milioto, Steve - DOA  
**Sent:** Thursday, January 04, 2007 2:00 PM  
**To:** Ryan, Robin  
**Subject:** FW: FW: pre-admission screening draft (BB0244)

FYI

-----Original Message-----

From: Andrew Forsaith [mailto:forsaac@dhfs.state.wi.us]  
Sent: Thursday, January 04, 2007 1:59 PM  
To: Milioto, Steve - DOA  
Subject: Re: FW: pre-admission screening draft (BB0244)

Steve - we would like the requirement removed for all clients.

>>> "Milioto, Steve - DOA" <steve.milioto@wisconsin.gov> 01/04/07 11:01 AM >>>

Please advise.

>  
> From: Ryan, Robin [mailto:Robin.Ryan@legis.wisconsin.gov]  
> Sent: Thursday, January 04, 2007 10:59 AM  
> To: Milioto, Steve - DOA  
> Subject: pre-admission screening draft (BB0244)  
>  
> Steve,  
>  
> Should I be amending COP, COP-W, and CIP II to eliminate the  
> pre-admission screening for CBRFs altogether or just for private pay  
> admitees?  
>  
> Here, for example is the requirement under CIP II. Should I repeal  
> it  
> or amend it as shown? (please let me know if the  
> striking/underlining  
> doesn't come through in the message.)  
>  
> 46.277 (5) (d) 1n. a. An assessment under s. 46.27 (6) has been  
> completed for the person prior to the person's admission to the  
> community-based residential facility, ~~whether or not except an~~  
> assessment is not required if the person is a private pay admittee  
> at  
> the time of admission. The county may waive this condition in  
> accordance with guidelines established by the department. If the  
> county waives this condition, the county must meet with the person  
> or  
> the person's guardian to discuss the cost-effectiveness of various  
> service options.  
>  
> Thanks,  
> Robin



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-1198/?

RLR:.....

Wlj

Jan 19/06

DOA:.....Milioto, BB0244 - Long-term care facilities; Family Care; information, referral, and assessment requirements

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

RMR  
D-Note

DO NOT GEN

1 AN ACT ... relating to: the budget.

*Analysis by the Legislative Reference Bureau*

✓ HEALTH AND HUMAN SERVICES

✓ OTHER HEALTH AND HUMAN SERVICES

Under current law, DHFS administers Family Care, a long-term care program for people who are at least 18 years of age, have a physical or developmental disability or a degenerative brain disorder, and satisfy financial eligibility criteria. Under Family Care, DHFS contracts with care management organizations to provide a flexible long-term care benefit called the family care benefit for a capitated payment rate. Also under Family Care, DHFS contracts with resource centers to provide information and referral services pertaining to long-term care and to assess financial and functional eligibility for the family care benefit, among other services. Five counties currently have both care management organizations and resource centers. An additional four counties have only resource centers.

Also under current law, community-based residential facilities (CBRFs), residential care apartment complexes (RCACs), nursing homes, and adult family homes in counties that have resource centers must provide prospective residents information about resource centers and the family care benefit and must refer certain prospective residents who are aged or who have a physical or developmental disability to the resource center. Hospitals in counties with resource centers also

STET  
all

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must refer certain patients who are aged or who have a physical or developmental disability to the resource center before discharging them.

This bill repeals the requirements that adult family homes provide information to prospective residents regarding resource centers and the family care benefit and refer prospective residents to the resource centers. The bill also repeals the requirement that hospitals refer patients to resource centers before discharging them. The bill provides that CBRFs and RCACs must provide information regarding resource centers and the family care benefit to prospective residents and, if a referral is required, refer prospective residents to resource centers when the CBRFs or RCACs first provide the prospective residents written material regarding their facilities. Further, the information that CBRFs and RCACs provide regarding resource centers and the family care benefit must be specified by DHFS. Also, in counties that do not have resource centers, CBRFs must refer certain prospective residents who are aged or have a physical or developmental disability to the county department responsible for administering long-term care programs.

DHFS  
must specify

Under current law, DHFS administers several programs to provide community-based long term care services to persons who are aged or have a physical or developmental disability, including the Community Options Program (COP), Community Options Waiver Program (COP Waiver) and the Community Integration Program for people who are relocated or diverted from nursing homes (CIP II). Counties generally may not use COP, COP Waiver, or CIP II funds to pay for care in a CBRF unless the program recipient underwent an assessment of his or her functional abilities, disabilities, and service needs and a review of alternatives to institutional care before he or she entered the CBRF, regardless of whether the recipient entered the CBRF as a privately-paying client.

The bill repeals the restriction on using COP, COP Waiver, or CIP II funds to pay for care in a CBRF for a program recipient who did not undergo an assessment of his or her abilities, disabilities, and services needs and a review of alternatives to institutional care before entering the CBRF.

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. 46.27 (7) (c) 3. a. of the statutes is repealed.
- 2           SECTION 2. 46.27 (11) (c) 5n. a. of the statutes is repealed.
- 3           SECTION 3. 46.277 (5) (d) 1n. a. of the statutes is repealed.
- 4           SECTION 4. 50.02 (2) (d) of the statutes is renumbered 50.02 (2) (d) (intro.) and
- 5 amended to read:

(intro.)

1 50.02 (2) (d) <sup>^</sup>The department shall promulgate rules that prescribe the time  
 2 periods and the methods of providing information specified in ss. 50.033 (2r) and (2s),  
 3 50.034 (5m) and (5n), 50.035 (4m) and (4n) and 50.04 (2g) (a) and (2h) (a). all of the  
 4 following:

**History:** 1971 c. 125, 161; 1973 c. 122, 323, 327, 333; 1975 c. 119, 240; 1975 c. 413 ss. 5 to 8; 1977 c. 29, 170, 418; 1981 c. 20, 121, 391; 1983 a. 542; 1985 a. 29; 1987 a. 161; 1989 a. 336; 1991 a. 250; 1993 a. 16, 327; 1995 a. 27 ss. 3222 to 3225, 9116 (5); 1995 a. 98; 1997 a. 237; 1999 a. 9, 103; 2005 a. 264, 387.

5 **SECTION 5.** 50.02 (2) (d) 1. of the statutes is created to read:

6 50.02 (2) (d) 1. The information that community-based residential facilities  
 7 shall provide to prospective residents under s. 50.035 (4m) concerning resource  
 8 centers, the family care benefit, and screens for the family care benefit, and the  
 9 method by which community-based residential facilities shall make referrals to  
 10 resource centers or county departments under s. 50.035 (4n).

11 **SECTION 6.** 50.02 (2) (d) 2. of the statutes is created to read:

12 50.02 (2) (d) 2. The information that residential care apartment complexes  
 13 shall provide to prospective residents under s. 50.034 (5m) regarding resource  
 14 centers, the family care benefit, and screens for the family care benefit, and the  
 15 method by which residential care apartment complexes shall make referrals to  
 16 resource centers under s. 50.034 (5n).

17 **SECTION 7.** 50.02 (2) (d) 3. of the statutes is created to read:

18 50.02 (2) (d) 3. The time period for nursing homes to provide information to  
 19 prospective residents under s. 50.04 (2g) (a) and the time period and method by which  
 20 nursing homes shall make referrals to resource centers under s. 50.04 (2h) (a).

21 **SECTION 8.** 50.033 (2r) of the statutes is repealed.

22 **SECTION 9.** 50.033 (2s) of the statutes is repealed.

23 **SECTION 10.** 50.033 (2t) of the statutes is repealed.

24 **SECTION 11.** 50.034 (5m) of the statutes is amended to read:

1           50.034 (5m) PROVISION OF INFORMATION REQUIRED. Subject to sub. (5p), when a  
2 residential care apartment complex shall, ~~within the time period after inquiry by~~  
3 first provides written material regarding the residential care apartment complex to  
4 a prospective resident ~~that is prescribed by the department by rule, inform, the~~  
5 residential care apartment complex shall also provide the prospective resident of  
6 information specified by the department concerning the services of a resource center  
7 under s. 46.283, the family care benefit under s. 46.286, and the availability of a  
8 functional and financial screen to determine the prospective resident's eligibility for  
9 the family care benefit under s. 46.286 (1).

History: 1995 a. 27; 1997 a. 13, 252; 1999 a. 9, 63, 185; 2001 a. 16; 2003 a. 33; 2005 a. 22.

10           **SECTION 12.** 50.034 (5n) (intro.) of the statutes is amended to read:

11           50.034 (5n) REQUIRED REFERRAL. (intro.) Subject to sub. (5p), when a residential  
12 care apartment complex shall, ~~within the time period prescribed by the department~~  
13 ~~by rule, refer to a resource center under s. 46.283 a person who is seeking admission,~~  
14 first provides written material regarding the residential care apartment complex to  
15 a prospective resident who is at least 65 years of age or has developmental disability  
16 or a physical disability and whose disability or condition is expected to last at least  
17 90 days, the residential care apartment complex shall refer the prospective resident  
18 to a resource center under s. 46.283, unless any of the following applies:

History: 1995 a. 27; 1997 a. 13, 252; 1999 a. 9, 63, 185; 2001 a. 16; 2003 a. 33; 2005 a. 22.

19           **SECTION 13.** 50.035 (4m) of the statutes is amended to read:

20           50.035 (4m) PROVISION OF INFORMATION REQUIRED. Subject to sub. (4p), when a  
21 community-based residential facility shall, ~~within the time period after inquiry by~~  
22 first provides written material regarding the community-based residential facility  
23 to a prospective resident that is prescribed by the department by rule, inform, the  
24 community-based residential facility shall also provide the prospective resident of

1 information specified by the department concerning the services of a resource center  
2 under s. 46.283, the family care benefit under s. 46.286, and the availability of a  
3 functional and financial screen to determine the prospective resident's eligibility for  
4 the family care benefit under s. 46.286 (1).

History: 1983 a. 363; 1985 a. 176; 1987 a. 403 ss. 67, 256; 1989 a. 336; 1991 a. 39; 1995 a. 27 ss. 3235 to 3237, 9116 (5); 1997 a. 27, 114, 237; 1999 a. 9, 32, 103, 186; 2001 a. 16; 2003 a. 33.

5 **SECTION 14.** 50.035 (4n) (intro.) of the statutes is amended to read:

6 50.035 (4n) REQUIRED REFERRAL. (intro.) ~~Subject to sub. (4p),~~ When a  
7 community-based residential facility shall, within the time period prescribed by the  
8 department by rule, refer to a resource center under s. 46.283 a person who is seeking  
9 admission, first provides written information regarding the community-based  
10 residential facility to a prospective resident who is at least 65 years of age or has  
11 developmental disability or a physical disability and whose disability or condition is  
12 expected to last at least 90 days, the community-based residential facility shall refer  
13 the individual to a resource center under s. 46.283 or, if the secretary has not certified  
14 under s. 46.281 (3) that a resource center is available in the area of the  
15 community-based residential facility to serve individuals in an eligibility group to  
16 which the prospective resident belongs, to the county program that administers the  
17 programs under ss. 46.27 and 46.277, unless any of the following applies:

History: 1983 a. 363; 1985 a. 176; 1987 a. 403 ss. 67, 256; 1989 a. 336; 1991 a. 39; 1995 a. 27 ss. 3235 to 3237, 9116 (5); 1997 a. 27, 114, 237; 1999 a. 9, 32, 103, 186; 2001 a. 16; 2003 a. 33.

18 **SECTION 15.** 50.035 (4p) of the statutes is amended to read:

19 50.035 (4p) APPLICABILITY. ~~Subsections Subsection (4m) and (4n) apply~~ applies  
20 only if the secretary has certified under s. 46.281 (3) that a resource center is  
21 available for the community-based residential facility and for specified groups of

1 eligible individuals that include those persons seeking admission to or the residents  
2 of the community-based residential facility.

History: 1983 a. 363; 1985 a. 176; 1987 a. 403 ss. 67, 256; 1989 a. 336; 1991 a. 39; 1995 a. 27 ss. 3235 to 3237, 9116 (5); 1997 a. 27, 114, 237; 1999 a. 9, 32, 103, 186; 2001 a. 16; 2003 a. 33.

3 **SECTION 16.** 50.035 (9) of the statutes is repealed.

4 **SECTION 17.** 50.36 (2) (c) of the statutes is repealed.

5 **SECTION 18.** 50.38 of the statutes is repealed.

6 (END)

D-N

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

LRB-1198/P1dn

RLR...:...

WJ

Steve:

Current law requires various long-term care facilities to provide prospective residents information about resource centers, the family care benefit, and assessments for the family care benefit. The drafting instructions provide that DHFS will specify the information that community-based residential facilities and residential care apartment complexes provide regarding resource centers. I assumed that DHFS will also specify the information that community-based residential facilities and residential care apartment complexes provide concerning the family care benefit and assessments for the benefit.

The drafting instructions call for some provisions that should be included in the statutes, some that the statutes should require DHFS to promulgate by rule, and some that DHFS may promulgate by rule or include as contract requirement, but that should not be included in the statutes. Please review the bill to determine whether I included everything I should include and have not included anything I should not include.

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

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

LRB-1198/P1dn  
RLR:wlj:nwn

January 11, 2007

Steve:

Current law requires various long-term care facilities to provide prospective residents information about resource centers, the family care benefit, and assessments for the family care benefit. The drafting instructions provide that DHFS will specify the information that community-based residential facilities and residential care apartment complexes provide regarding resource centers. I assumed that DHFS will also specify the information that community-based residential facilities and residential care apartment complexes provide concerning the family care benefit and assessments for the benefit.

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

## Ryan, Robin

**From:** Forsaith, Andrew C - DHFS  
**Sent:** Wednesday, January 24, 2007 6:59 PM  
**To:** Ryan, Robin  
**Subject:** Re: FW: FW: LRB Draft: 07-1198/P1 Long-term care facilities; Family Care; information, referral, and ass

Hi Robin -- Correct, please continue to exempt RCACs from the referral requirements. And yes, the language you cited is options counseling.

Thanks,

Andy

>>> "Ryan, Robin" <Robin.Ryan@legis.wisconsin.gov> 1/24/2007 2:04:03 PM  
>>>

Hi Andy,

I have 2 follow-up questions on your item number 1. below:

The draft currently does not require RCACs in wavier counties to refer prospective clients to the county agency that administers long-term care programs. This requirement only applies to CBRFs. Should it apply to RCACs as well?

There is language in the family care statutes at s. 46.283 (3) (d) requiring resource center to provide "counseling concerning public and private benefits programs." I presume this is options counseling.

Thanks,  
Robin

-----Original Message-----

**From:** Milioto, Steve - DOA  
**Sent:** Friday, January 19, 2007 7:09 AM  
**To:** Ryan, Robin  
**Subject:** FW: FW: LRB Draft: 07-1198/P1 Long-term care facilities; Family Care; information, referral, and assess

FYI -- You have my permission to speak to Andy Forsaith directly if you have any questions about the changes. Best, Steve

-----Original Message-----

**From:** Andrew Forsaith [mailto:forsaac@dhfs.state.wi.us]  
**Sent:** Thursday, January 18, 2007 6:42 PM  
**To:** Milioto, Steve - DOA  
**Cc:** Bove, Fredi-Ellen E - DHFS; Deignan, Monica A - DHFS; Fearnside, Wendy A - DHFS; Frye, Judith E - DHFS; Jones, Charles M - DHFS; Molke, Carrie A - DHFS; Smith, Janice A - DHFS; Wilhelm, Charles A - DHFS  
**Subject:** Re: FW: LRB Draft: 07-1198/P1 Long-term care facilities; Family Care; information, referral, and assess

Steve -- Thanks for the chance to review the draft. Here are our comments:

1. Under 46.27(7), 46.27(11) & 46.277 we would like to add language that requires waiver counties to offer options counseling as prescribed by the department within a timeframe determined by the department to people referred to them by CBRFs and RCACs under chapter 50. This is an additional provision that wasn't included in our original proposal, but we think it make sense. Without this requirement, we're concerned that counties won't follow up with the person in all cases, making the referral meaningless. The provision would mirror the requirement in Family Care counties, where we would require ADRCs through contract to follow up on referrals. The overall change would still be to reduce the burden on counties, because currently they must conduct a full assessment for everyone before they enter the CBRF.

2. Repeal 50.035(7) requiring CBRFs to complete a statement of financial condition for all new residents. The new requirements for ADRCs and counties to offer options counseling eliminates the need for CBRFs to prepare a separate statement for applicants regarding how long their money will last in the facility.

3. Section 4 and 5 of the draft requires the Department to specify in rule the information the CBRF and RCAC must provide to applicants. Please redraft these provisions to eliminate the requirement that the Department specify the information through rule. We prefer to specify the information through policy memos or other means of communication, without having to go through the rule making process.

>>> "Milioto, Steve - DOA" <steve.milioto@wisconsin.gov> 01/12/07 8:28 AM >>>  
Please review.

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From: Natzke, Noah [mailto:Noah.Natzke@legis.wisconsin.gov]  
Sent: Thursday, January 11, 2007 2:42 PM  
To: Milioto, Steve - DOA  
Cc: Johnston, James - DOA; Hanaman, Cathlene - LEGIS; Palchik, Laurie A - DOA  
Subject: LRB Draft: 07-1198/P1 Long-term care facilities; Family Care; information, referral, and assessment requirements

Following is the PDF version of draft 07-1198/P1.