



2007 DRAFTING REQUEST

Bill

Received: **01/16/2007**

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: **CMH,PJK**

Submit via email: **NO**

Pre Topic:

DOA:.....Milioto, BB0385a -

Topic:

Changing family care district to long-term care district

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>
/?							
/P1	rryan 01/18/2007	lkunkel 01/23/2007	nmatzke 01/23/2007	_____	sbasford 01/23/2007		
	rryan 01/27/2007	lkunkel 01/28/2007		_____			
/P2	rryan 01/30/2007	lkunkel 01/30/2007	jfrantze 01/29/2007	_____	mbarman 01/29/2007		
/P3			nmatzke 01/30/2007	_____	cduerst 01/30/2007		

FE Sent For:

<END>

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/P2			jfrantze 01/29/2007	_____	mbarman 01/29/2007		
FE Sent For:			1/p3/mk/30 nwn 1/30	nwn/pg 1/30			

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p2/mk/28 to 1/29 *J/Ps*
<END>

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Received: 01/16/2007

Received By: rryan

Wanted: As time permits

Identical to LRB:

For: Administration-Budget

By/Representing: Steve Milioto

This file may be shown to any legislator: NO

Drafter: rryan

May Contact:

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Extra Copies:

Submit via email: NO

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/?	rryan	/p/mk 1/23	nwn 1/23	nwn/pg 1/23			

FE Sent For:

<END>

LRB-1524

2007-09 Budget Bill Statutory Language Drafting Request

- Topic: ~~Family Care (Round IV Stat Language Requests)~~
- Tracking Code: BB0385a
- SBO team: Health
- SBO analyst: Steve Milioto
 - Phone: 266-8593
 - Email: Steve.Milioto@Wisconsin.gov
- Agency acronym: DHFS
- Agency number: 435

Priority - High

Robin – Please make the changes we discussed on the phone. (Long-term care council revisions)

Ryan, Robin

LCB-1524

From: Milioto, Steve - DOA
Sent: Thursday, January 11, 2007 12:38 PM
To: Ryan, Robin
Subject: FW: Additional Family Care Stat Language Proposals

Attachments: Family Care District Statute final from WCA 1.05.07.doc; Family Care Other Stats from WCA 1.05.07.doc; Family Care statutory changes-from Council 1.05.07.doc



Family Care District Statute f...
Family Care Other Stats from W...
Family Care statutory changes-...

Hi Robin --

The department has submitted the attached interest group requests to us. Do not draft anything at this point. What I would like to know is how time-consuming drafting these changes would be for you? Thanks! Steve

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

From: Andrew Forsaith [mailto:forsaac@dhfs.state.wi.us]
Sent: Friday, January 05, 2007 5:20 PM
To: Johnston, James - DOA; Milioto, Steve - DOA
Cc: Bove, Fredi-Ellen E - DHFS; Frye, Judith E - DHFS; Jones, Charles M - DHFS; Nelson, Helene - DHFS; Waller, Diane J - DHFS; Wilhelm, Charles A - DHFS
Subject: Additional Family Care Stat Language Proposals

Jim and Steve -- As promised, attached are two additional Family Care statutory language packages.

The first two files comprise the proposal developed by the Wisconsin Counties Association regarding Family Care (renamed Long Term Care) Districts.

The second proposal was developed by the State Long Term Care Council to restructure the local long term care council statute. *In another draft*

The Department supports these proposals and asks that they be considered for the Governor's Budget. Please contact me or Diane Waller with any questions. Thanks.

LONG TERM CARE DISTRICT STATUTE

Wis. Stat. § 46.2895

Declaration of policy. The legislature recognizes that many citizens of the state, because of frailties of aging or a developmental or physical disability, or other like incapacity, are in need of long term care services. This section is designed to provide for the creation of long term care districts made up of single or multiple units of government, which districts would themselves be local units of government responsible for the provision of long term care services on a local regional level. In authorizing the creation of long term care districts, the legislature desires to provide counties and Indian tribes and bands with the greatest amount of flexibility in establishing, managing and operating the long term care districts consistent with the intent and purpose of this section and Chapter 46. This section reaffirms the State's commitment to provide for the delivery of long term care services in a manner whereby individual counties are no longer responsible for the delivery of such services should a county organize an entity in a manner consistent with this section. This section shall be interpreted liberally in favor of cooperative action between counties and between counties and Indian tribes and bands in this state.

(1) Creation. (a) A county board of supervisors may create a special purpose district that is termed a "long term care district," that is a local unit of government, that is separate and distinct from, and independent of, the state and the county, and that has the powers and duties specified in this section, if the county board does all of the following:

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1. Adopts an enabling resolution that does all of the following:

a. Declares the need for establishing the long term care district.

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b. Specifies the long term care district's primary purpose, which shall be to operate, under contract with the department, either a resource center under s. 46.283, a care management organization under s. 46.284, or a managed care program, but in no event will a long term care district operate a resource center and care management organization or managed care program at the same time. A county or counties may create more than one long-term care district.

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PACE Partnership

2. Files copies of the enabling resolution with the secretary of administration, the secretary of health and family services and the secretary of revenue.

(b) The county boards of supervisors of 2 or more counties may together create a long term care district with the attributes specified in par. (a) on a multi-county basis within the counties if the county boards of supervisors comply with the requirements of par. (a)1. and 2.

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(c) Federally recognized Indian tribes and bands in this state may together, or in conjunction with one or more counties, create a long term care district with the attributes specified in par. (a) on a regional basis within the Indian tribe(s) or band(s) and counties' geographic boundaries if the governing bodies of the participating Indian tribe(s) and band(s) and the county boards of supervisors comply with the requirements of par. (a)1. and 2.

(d) After formation of the long term care district, a long term care district may change its primary purpose in order to provide different services so long as the change is to another one of the three permitted primary purposes set forth in par. (a)1.b. and is otherwise consistent with contractual requirements with the department. All units of government that are members of the long term care district must consent to the alteration of the long term care district's primary purpose, which consent must be reflected in an adopted resolution of the member's governing body.

(2) **Jurisdiction.** The jurisdiction of a long term care district formed under sub. (1)(a) or (b) is the geographical area of the county or counties of the county board or boards of supervisors who created the long term care district. The jurisdiction of a long term care district formed under sub. (1)(c) is the geographical area of the county or counties of the county board or boards of supervisors who created the long term care district, together with the geographical area of the participating Indian tribe(s) or band(s). The jurisdiction of a long term care district formed under sub. (1)(c) and consisting solely of Indian tribe(s) or band(s) is the geographical area of the participating Indian tribe(s) or band(s).

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(3) **Long term care district board.**

- Deleted: Family

(a)

1. The county board of supervisors of a county or, in a county with a county administrator or county executive, the county administrator or county executive shall appoint the members of the long term care district board, which is the governing board of a long term care district under sub. (1)(a). The size and representative composition of the long term care district board shall be contained in the enabling resolution set forth in sub. (1)(a).

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2. The county boards of supervisors of 2 or more counties shall appoint the members of the long term care district board, which is the governing board of the long term care district under sub. (1)(b). The size and representative composition of the long term care district board shall be contained in the enabling resolution set forth in sub. (1)(a).

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3. The governing bodies of Indian tribe(s) or band(s) and, if applicable, the county board(s) of supervisors of participating counties shall appoint the members of the long term care district board, which is the governing board of the long term care district under sub. (1)(c). The size and representative composition of the long term care district board shall be contained in the enabling resolution set forth in sub. (1)(a).

- Deleted: Each county board shall appoint members in the same proportion that the county's population represents to the total population of all of the counties that constitute the jurisdiction of the family care district
- Deleted: .

(b)

1. At least one-fourth of the members of the long term care district board appointed under par. (a) shall be representative of the client group or groups whom it is the long term care district's primary purpose to serve or those clients' family members, guardians or other advocates.

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2. The long term care district board shall consist of persons who are residents of the area of jurisdiction of the long term care district.

3. Membership of the family care district board under subd. 1. or 2. shall reflect the ethnic and economic diversity of the area of jurisdiction of the family care district. No member of a long term care district board may have a private financial interest in or profit directly or indirectly from any contract or other business of the long term care district.

(d) As soon as possible after the appointment of the initial members of the long term care district board, the board shall organize for the transaction of business and elect a chairperson and other necessary officers. A majority of the board shall constitute a quorum. Except as explicitly set forth in the long term care district's by-laws, the board may act based on the affirmative vote of a majority of a quorum.

(4) Powers. Subject to sub. (1)(a)1.b., a long term care district has all the powers necessary or convenient to carry out the purposes and provisions of ss. 46.2805 to 46.2895. In addition to all these powers, a long term care district may do all of the following:

a (a) Adopt and alter, at pleasure, an official seal.

b (b) Adopt bylaws and policies and procedures for the regulation of its affairs and the conduct of its business. The bylaws, policies and procedures shall be consistent with ss. 46.2805 to 46.2895 and, if the long term care district contracts with the department under par. (d), with the terms of that contract.

c (c) Sue and be sued.

d (d) Negotiate and enter into leases or contracts, including a contract with the department to operate either a resource center or a portion of its functions under s. 46.283 or a care management organization under s. 46.284, but not both a resource center or its functions and a care management organization.

e (e) Provide services related to services available under the family care benefit, to older persons and persons with disabilities, in addition to the services funded under the contract with the department that is specified under par. (d).

f (f) Provide services related to services available under a managed care benefit, in addition to the services funded under the contract with the department that is specified under par. (d).

g (g) Acquire, construct, equip, maintain, improve or manage a resource center under s. 46.283 or a care management organization under s. 46.284, but not both.

h (h) Subject to sub. (8), employ any agent, employee, or special adviser that the long term care district finds necessary, fix and regulate his or her compensation and provide, either directly or subject to an agreement under s. 66.0301 as a participant in a benefit plan of another governmental entity, any employee benefits, including an employee pension plan.

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- Deleted: appointed under par. (a)2.
- Deleted: an odd number of members that is at least 15 but not more than 21
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- Deleted: family
- Deleted: At least one-fourth of the members shall be representative of the client group or groups whom it is the family care district's primary purpose to serve or those clients' family members, guardians or other advocates.
- Deleted: Up to one-fourth of the members of the board may be elected or appointed officials or employees of the county or counties that created the family care district.
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- (c) The members of the family care district board appointed under par. (a) shall serve 3-year terms. No member may serve more than 2 consecutive terms. Of the members first appointed, 5 shall be appointed for 3 years; 5 shall be appointed for 4 years; and 5 or, in the case of a board appointed under par. (b)2., the remainder, shall be appointed for 5 years. A member shall serve until his or her successor is appointed, unless removed for cause under s. 17.13.
- Deleted: ¶
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- Deleted: Each chairperson shall be elected by the board from time to time for the term of that chairperson's office as a member of the board or for the term of 3 years, whichever is shorter, and shall be eligible for reelection.
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h | (i) Mortgage, pledge or otherwise encumber the long term care district's property or funds. Deleted: h

i | (j) Buy, sell or lease property, including real estate, and maintain or dispose of the property. Deleted: family
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j | (k) Invest any funds not required for immediate disbursement in any of the following: Deleted: j

1. An interest-bearing escrow account with a financial institution, as defined in s. 69.30(1)(b).

2. Time deposits in any financial institution, as defined in s. 69.30(1)(b), if the time deposits mature in not more than 2 years.

3. Bonds or securities issued or guaranteed as to principal and interest by the federal government or by a commission, board or other instrumentality of the federal government.

K | (L) Create a risk reserve or other special reserve as the long term care district board desires or as the department requires under the contract with the department that is specified under par. (d). Deleted: k
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L | (m) Accept aid, including loans, to accomplish the purpose of the long term care district from any local, state or federal governmental agency or accept gifts, loans, grants or bequests from individuals or entities, if the conditions under which the aid, loan, gift, grant or bequest is furnished are not in conflict with this section. Deleted: L
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m | (n) Make and execute other instruments necessary or convenient to exercise the powers of the long term care district. Deleted: m
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(5) **Limitation on powers.** A long term care district may not issue bonds or levy a tax or assessment. Deleted: family

(6) **Duties.** The long term care district board shall do all of the following: Deleted: family

(a) Appoint a director, who shall hold office at the pleasure of the board.

(b) Subject to sub. (8), develop and implement a personnel structure and other employment policies for employees of the long term care district. Deleted: family

(c) Assure compliance with the terms of any contract with the department under sub. (4)(d).

(d) Establish a fiscal operating year and annually adopt a budget for the long term care district. Deleted: family

(e) Contract for any legal services required for the long term care district. Deleted: family

(f) Subject to sub. (8), procure liability insurance covering its officers, employees, and agents, insurance against any loss in connection with its property and other assets and other necessary

insurance; establish and administer a plan of self-insurance; or, subject to an agreement under s. 66.0301, participate in a governmental plan of insurance or self-insurance.

(7) Director; duties. The director appointed under sub. (6)(a) shall do all of the following:

(a) Manage the property and business of the long term care district and manage the employees of the district, subject to the general control of the long term care district board.

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(b) Comply with the bylaws and direct enforcement of all policies and procedures adopted by the long term care district board.

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(c) Perform duties in addition to those specified in pars. (a) and (b) as are prescribed by the long term care district board.

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(8) Employment and employee benefits of certain employees.

(a) A long term care district board shall do all of the following:

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1. If the long term care district offers employment to any individual who was previously employed by the county, who while employed by the county performed duties relating to the same or a substantially similar function for which the individual is offered employment by the district and whose wages, hours and conditions of employment were established in a collective bargaining agreement with the county under subch. IV of ch. 111 that is in effect on the date that the individual commences employment with the district, with respect to that individual, abide by the terms of the collective bargaining agreement concerning the individual's wages and, if applicable, vacation allowance, sick leave accumulation, sick leave bank, holiday allowance, funeral leave allowance, personal day allowance and/or paid time off allowance until the time of the expiration of that collective bargaining agreement or adoption of a collective bargaining agreement with the district under subch. IV of ch. 111 covering the individual as an employee of the district, whichever occurs first.

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3. If the long term care district offers employment to any individual who was previously employed by the county and who while employed by the county performed duties relating to the same or a substantially similar function for which the individual is offered employment by the district, with respect to that individual, recognize all years of service with the county for any benefit provided or program operated by the district for which an employee's years of service may affect the provision of the benefit or the operation of the program.

Deleted: 2. If the family care district offers employment to any individual who was previously employed by the county and who while employed by the county performed duties relating to the same or a substantially similar function for which the individual is offered employment by the district, but whose wages, hours and conditions of employment were not established in a collective bargaining agreement with the county under subch. IV of ch. 111 that is in effect on the date the individual commences employment with the district, with respect to that individual, initially provide that individual the same compensation and benefits that he or she received while employed by the county.

4. If the county has not established its own retirement system for county employees, adopt a resolution that the long term care district be included within the provisions of the Wisconsin retirement system under s. 40.21(1). In this resolution, the long term care

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district shall agree to recognize 100% of the prior creditable service of its employees earned by the employees while employed by the district.

(b) The county board of supervisors of the area of jurisdiction of the long term care district shall do all of the following:

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1. If the county has established its own retirement system for county employees, provide that long term care district employees are eligible to participate in the county retirement system.

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2. If the long term care district offers employment to any individual who was previously employed by the county, provide health insurance to such employee upon terms similar to that which the county previously provided the employee.

Deleted: Provide that, subject to the terms of any applicable collective bargaining agreement as provided in par. (a)1., family care district employees are eligible to receive health care coverage under any county health insurance plan that is offered to county employees

(c) The long term care district and any member county or counties are hereby authorized to enter into an agreement relating to allocation of cost between the long term care district and the member county or counties for any or all of the benefits described in this subsection.

(9) Confidentiality of records. No record, as defined in s. 19.32(2), of a long term care district that contains personally identifiable information, as defined in s. 19.62(5), concerning an individual who receives services from the long term care district may be disclosed by the long term care district without the individual's informed consent, except as required to comply with s. 16.009(2)(p) or 49.45(4).

Deleted: 3. Provide that, subject to the terms of any applicable collective bargaining agreement as provided in par. (a)1., family care district employees are eligible to participate in any deferred compensation or other benefit plan offered by the county to county employees, including disability and long-term care insurance coverage and income continuation insurance coverage.

(10) Exchange of information. Notwithstanding sub. (9) and ss. 48.78(2)(a), 49.45(4), 49.83, 51.30, 51.45(14)(a), 55.22(3), 146.82, 252.11(7), 253.07(3)(c) and 938.78(2)(a), a long term care district acting under this section may exchange confidential information about a client, as defined in s. 46.287(1), without the informed consent of the client, under s. 46.21(2m)(c), 46.215(1m), 46.22(1)(dm), 46.23(3)(e), 46.283(7), 46.284(7), 51.42(3)(e) or 51.437(4r)(b) in the jurisdiction of the long term care district, if necessary to enable the long term care district to perform its duties or to coordinate the delivery of services to the client.

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(11) Obligations, debts and statutory responsibilities not those of county. The obligations and debts of the long term care district are not the obligations or debts of the county or counties that created the long term care district. No county participating in a long term care district shall be individually responsible for the provision of services or benefits, or the payment of any money related thereto, if the long term care district of which the county is a member is obligated, by statute, contract or otherwise, to provide the services or benefits.

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(12) Assistance to long term care district. From moneys in the county treasury that are not appropriated to some other purpose, the county board of supervisors under sub. (1)(a) or the county boards of supervisors under sub. (1)(b) may appropriate moneys to the long term care district as a gift or may lend moneys to the long term care district.

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(13) Dissolution. Subject to the performance of the contractual obligations of a long term care district and if first approved by the secretary of the department, the long term care district may be dissolved by the joint action of the long term care district board and county board of supervisors under sub. (1)(a) or the county boards of supervisors under sub. (1)(b) or the governing bodies of the Indian tribe(s) or band(s) and the county board(s) of supervisors, if applicable, under sub. (1)(c) that created the long term care district. If the long term care district is dissolved, the property of the district shall be transferred to the county board of supervisors and/or the Indian tribe(s) or band(s) that created the long term care district except as follows:

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(a) If the long term care district was created under sub. (1)(b) or (c), the county boards of supervisors and Indian tribe(s) or band(s), if applicable, shall agree on the apportioning of the long term care district's property before the district may be dissolved.

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(b) If the long term care district operates a care management organization under s. 46.284, disposition of any remaining funds in the risk reserve under s. 46.284(5)(e) shall be made under the terms of the district's contract with the department.

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(14) Dissociation. The long term care district may establish conditions and restrictions related to the withdrawal from a long term care district formed under sub. (1)(b) or (c) or a participant being removed from a long term care district formed under sub. (1)(b) or (c), which conditions shall be subject to the approval of the department.

Modifications to sec. 46.284(5) and (6)**(5) FUNDING AND RISK-SHARING.**

(a) From the appropriation accounts under s. 20.435 (4) (b), (g), (gp), (im), (o), and (w) and (7) (b) and (bd), the department shall provide funding on a capitated payment basis for the provision of services under this section. Notwithstanding s. 46.036 (3) and (5m), a care management organization that is under contract with the department may expend the funds, consistent with this section, including providing payment, on a capitated basis, to providers of services under the family care benefit.

(b) If the expenditures by a care management organization under par. (a) exceed payments received from the department under par. (a), as determined by the department by contract, the department may share the loss with the care management organization, within the limits prescribed under the contract with the department.

(c) If the payments received from the department under par. (a) exceed the expenditures by a care management organization under par. (a), as determined by the department by contract, the care management organization may retain a portion of the excess payments, within the limits prescribed under the contract with the department, and shall return the remainder to the department.

(d) The department may, by contract, impose solvency protections that the department determines are reasonable and necessary to retain federal financial participation. These protections may include all of the following:

1. The requirement that a care management organization segregate a risk reserve from other funds of the care management organization or the authorizing body for the care management organization.
2. The requirement that interest accruing to the risk reserve remain in the escrow account for the risk reserve.
3. Limitations on the distribution of funds from the risk reserve.
4. The requirement that a care management organization place funds in a risk reserve and maintain the risk reserve in an interest-bearing escrow account with a financial institution, as defined in s. 69.30 (1) (b), or invest funds as specified in s. 46.2895(4) (j) 2. or 3. Moneys in the risk reserve or invested as specified in this subdivision may be expended only for the provision of services under this section. If a care management organization ceases participation under this section, the funds in the risk reserve or invested as specified in this subdivision, minus any contribution of moneys other than those specified in par. (c), shall be returned to the department. The department shall expend the moneys for the payment of outstanding debts to providers of family care benefit services and for the continuation of family care benefit services to enrollees.

(e)

1. Subject to subd. 2., a care management organization may enter into contracts with providers of family care benefit services and may limit profits of the providers under the contracts.

2. The department shall review the contracts in subd. 1., including rates for the provision of service, to ensure that the contract terms protect services access by enrollees and financial viability of the care management organization, and may require contract revision.

~~(f) In no event shall a county or counties be individually liable for any debts, defaults or other obligations of a care management organization nor shall any county be required to individually provide services and/or benefits that a care management organization contracts with the department to provide.~~

(6) GOVERNING BOARD. At least one-fourth of the members of the governing board of a care management organization shall be representative of the client group or groups whom the care management organization is contracted to serve or those clients' family members, guardians or other advocates.

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Deleted: A care management organization shall have a governing board that reflects the ethnic and economic diversity of the geographic area served by the care management organization.

Deleted: older persons or persons with physical or developmental disabilities or their family members, guardians or other advocates who are representative of the care management organization's enrollee

copies language elsewhere in Family Care stats