

2007 DRAFTING REQUEST

Bill

Received: **12/07/2006**

Received By: **dkennedy**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Council - LRC 6-9791**

By/Representing: **Laura Rose**

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

Drafter: **dkennedy**

May Contact:

Addl. Drafters:

Subject: **Health - facility licensure**

Extra Copies:

Submit via email: **YES**

Requester's email: **laura.rose@legis.wisconsin.gov**

Carbon copy (CC:) to: **robin.ryan@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Nursing home and c-brf service of notice

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>
/?	dkennedy 12/20/2006	jdyer 12/26/2006		_____			
/P1			nmatzke 12/27/2006	_____	sbasford 12/27/2006		
/1	dkennedy 11/07/2007	jdyer 11/07/2007	rschluet 11/07/2007	_____	lparisi 11/07/2007	lparisi 11/08/2007	
/2	dkennedy	jdyer	nmatzke	_____	mbarman	lparisi	

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	11/08/2007	11/08/2007	11/08/2007 _____		11/08/2007	11/08/2007	

FE Sent For: N/A

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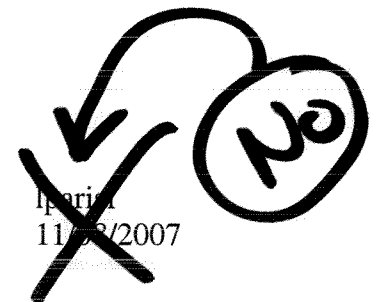
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[Handwritten signatures and initials]

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/?	dkennedy	A1 12/26 jld	nwn 12/27	nwn/cd 12/27			

FE Sent For:

<END>

Uniform Licensure: Service of Notices Modernization

Specific Statutory Change Requested

s. 50.03(2m) requires the department to serve any notices to licensees or applicants via registered or certified mail, with a return receipt requested. OQA is requesting the statute be changed to allow either mail or email, with a return acknowledgement requested. OQA will then have the flexibility to determine exactly how notices are sent and how we are assured that providers receive them.

Administrative or Substantive Problem with the Current Statutes

The current statute does not allow for communication via modern technology (email) and alternate means of delivery such as FedEx or UPS. Requiring certified mail slows down and restricts the communication process between the department and providers.

Need for the Change

Many providers have requested the ability to receive Statements of Deficiency (SODs) and to submit plans of correction via email. The federal Centers for Medicare and Medicaid Services (CMS) is also exploring electronic means for communicating survey findings. The current statute is an obstacle to modernizing this process.

Estimate of Fiscal Effect

No direct fiscal effect. Serving SODs to providers via email has the potential of substantially decreasing the department's cost for certified mail.



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1060/3 P1

DAK:.....

D-NOTE

Jld

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Gen

1 AN ACT ...; relating to: service of notice for certain licensees, registrants, or
2 holders of certificates or applicants for licensure, registration, or certification
3 (suggested as remedial legislation by the Department of Health and Family
4 Services).

Analysis by the Legislative Reference Bureau

Under current law, the Department of Health and Family Services (DHFS) licenses and otherwise regulates nursing homes and community-based residential facilities, and certifies or registers residential care apartment complexes. Also, DHFS or a county may license or certify certain adult family homes.

Currently, each licensee or applicant for licensure must file with DHFS the name and address of a person who is authorized to accept service of notice or other papers. Proper service is personal service or the sending of the notice or other paper by registered or certified mail, with a return receipt requested.

This bill applies to certified or registered residential care apartment complexes and certified adult family homes current law relating to service of notices. The bill requires that each licensee, registrant, or certificate holder or applicant for licensure, registration, or certification file with DHFS the name and address of a person authorized to accept service by mail or electronic mail, and specifies that proper

notice includes the sending of a notice or paper by mail or electronic mail, with a return acknowledgement requested. *

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

anal:
Lronote

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Health and Family Services and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1 SECTION 1. 50.03 (2m) (a) of the statutes is amended to read:

2 50.03 (2m) (a) Each licensee, registrant or holder of a certificate or applicant
3 for license licensure, certification, or registration by the department under this
4 subchapter shall file with the department the name and address of a person
5 authorized to accept service of any notices or other papers which the department may
6 send by registered or certified mail, with a return receipt requested, or by mail or
7 electronic mail, with a return acknowledgement requested. The person authorized
8 by a nursing home under this paragraph shall be located at the nursing home.

History: 1975 c. 413; 1977 c. 29, 170, 205, 272, 418, 447; 1979 c. 221; 1981 c. 20, 72, 121; 1981 c. 314 s. 146; 1985 a. 29 ss. 1058, 3202 (56) (a); 1985 a. 176; 1985 a. 182 s. 57; 1985 a. 332 s. 251 (1), (3); 1987 a. 27, 127, 399; 1989 a. 31, 359; 1991 a. 39, 221; 1993 a. 27, 112, 375, 491; 1995 a. 27 ss. 3227 to 3232, 9126 (19); 1997 a. 27, 114; 2001 a. 16; 2003 a. 33; 2005 a. 264, 387.

9 SECTION 2. 50.03 (2m) (b) of the statutes is renumbered 50.03 (2m) (b) (intro.)

10 and amended to read:

11 50.03 (2m) (b) (intro.) Notwithstanding s. 879.05, wherever whenever in this
12 subchapter the department is required to serve any notice or other paper on a
13 licensee or applicant for license, proper service is personal service or the sending of
14 the notice or paper by registered or certified mail, with a return receipt requested,
15 if made to the most recent address on file with the department under par. (a) shall

1 constitute proper service. [✓] is the sending of the notice or paper by one of the following
2 means: [✓]

History: 1975 c. 413; 1977 c. 29, 170, 205, 272, 418, 447; 1979 c. 221; 1981 c. 20, 72, 121; 1981 c. 314 s. 146; 1985 a. 29 ss. 1058, 3202 (56) (a); 1985 a. 176; 1985 a. 182 s. 57; 1985 a. 332 s. 251 (1), (3); 1987 a. 27, 127, 399; 1989 a. 31, 359; 1991 a. 39, 221; 1993 a. 27, 112, 375, 491; 1995 a. 27 ss. 3227 to 3232, 9126 (19); 1997 a. 27, 114; 2001 a. 16; 2003 a. 33; 2005 a. 264, 387.

3 **SECTION 3.** 50.03 (2m) (b) 1. [✓] of the statutes is created to read:

4 50.03 (2m) (b) 1. By registered or certified mail, with a return receipt
5 requested. [✓]

6 **SECTION 4.** 50.03 (2m) (b) 2. [✓] of the statutes is created to read:

7 50.03 (2m) (b) 2. By mail or electronic mail, [✓] with a return acknowledgement
8 requested.

9 (END)

D-NOTE

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1060/7dn

DAK:.....

PI

Jld

date

To Laura Rose:

Because current law under s. 50.03 (2m) (b), stats., refers to "wherever in this subchapter" DHFS is required to serve notice, I have expanded s. 50.03 (2m) to include all facilities that are regulated under subch. I of ch. 50, stats. Okay?

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1060/P1dn
DAK:jld:nwn

December 27, 2006

To Laura Rose:

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LEGISLATIVE REFERENCE BUREAU

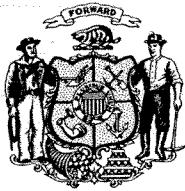
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SOON - 2u edit 11/7
State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1060/D1

DAK:jld:nwn

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

Regen

1 AN ACT *to renumber and amend* 50.03 (2m) (b); *to amend* 50.03 (2m) (a); and
2 *to create* 50.03 (2m) (b) 1. and 50.03 (2m) (b) 2. of the statutes; **relating to:**
3 service of notice for certain licensees, registrants, or holders of certificates or
4 applicants for licensure, registration, or certification (suggested as remedial
5 legislation by the Department of Health and Family Services).

Analysis by the Legislative Reference Bureau

Under current law, the Department of Health and Family Services (DHFS) licenses and otherwise regulates nursing homes and community-based residential facilities, and certifies or registers residential care apartment complexes. Also, DHFS or a county may license or certify certain adult family homes.

Currently, each licensee or applicant for licensure must file with DHFS the name and address of a person who is authorized to accept service of notice or other papers. Proper service is personal service or the sending of the notice or other paper by registered or certified mail, with a return receipt requested.

This bill applies to certified or registered residential care apartment complexes and certified adult family homes current law relating to service of notices. The bill requires that each licensee, registrant, or certificate holder or applicant for licensure, registration, or certification file with DHFS the name and address of a person authorized to accept service by mail or electronic mail, and specifies that proper notice includes the sending of a notice or paper by mail or e-mail, with a return acknowledgement requested.

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Health and Family Services and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

SECTION 1. 50.03 (2m) (a) of the statutes is amended to read:

50.03 (2m) (a) Each licensee, registrant, or holder of a certificate or applicant for license licensure, certification, or registration by the department under this subchapter shall file with the department the name and address of a person authorized to accept service of any notices or other papers which the department may send by registered or certified mail, with a return receipt requested, or by mail or electronic mail, with a return acknowledgement requested. The person authorized by a nursing home under this paragraph shall be located at the nursing home.

SECTION 2. 50.03 (2m) (b) of the statutes is renumbered 50.03 (2m) (b) (intro.) and amended to read:

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SECTION 3. 50.03 (2m) (b) 1. of the statutes is created to read:

INSERT

1 50.03 (2m) (b) 1. By registered or certified mail, with a return receipt
2 requested.

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6

(END)

INSERT 3-5 ✓

INSERT 3-5

NOTE:

CS

LRB1060/1 This bill allows licensees, registrants, or certificate holders, or applicants for same, to accept service of notices or other papers sent by the department of health and family services by mail or electronic mail, with a return acknowledgment requested, in addition to registered or certified mail, with a return receipt requested. According to the department, this change will expedite and modernize the process for serving notices and other papers.

note:
std

(end insert 3-5)

INSERT J

Department of Health and Family Services

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note:
LRC

(end insert J)

LPS -
insert
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in



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6

(END)

Basford, Sarah

From: Rose, Laura
Sent: Thursday, November 08, 2007 10:30 AM
To: LRB.Legal
Subject: Draft Review: LRB 07-1060/2 Topic: Nursing home and c-brf service of notice

Please Jacket LRB 07-1060/2 for the SENATE.