

## 2007 SENATE BILL 548

February 29, 2008 – Introduced by LAW REVISION COMMITTEE. Referred to  
Committee on Public Health, Senior Issues, Long Term Care and Privacy.

1     **AN ACT** *to repeal* 49.45 (8) (a) 1., 49.498 (2) (e) 1., 146.40 (1) (bm), 146.40 (1) (bp),  
2           146.40 (2) (am), 146.40 (2) (b), 146.40 (2) (bm), 146.40 (2) (f) and 146.40 (4r) (am)  
3           **2.**; *to renumber and amend* 146.40 (2) (c); *to amend* 46.275 (5) (b) 4., 46.278  
4           (1), 46.278 (1m) (am), 46.278 (2) (a), 46.278 (4) (a), 46.278 (5) (a), 46.278 (6) (e)  
5           1. a., 46.278 (6) (e) 1. b., 46.278 (6) (e) 1. c., 46.279 (1) (b), 48.685 (8), 49.45 (6m)  
6           (am) 1. bm., 49.45 (30m) (a) 2., 49.45 (42) (b), 49.498 (1) (h), 49.498 (2) (e) 2.,  
7           49.498 (2) (e) 3., 50.01 (2), 50.04 (2) (c) 2. b., 50.04 (2) (d) (intro.), 50.04 (2r),  
8           50.065 (8), 50.095 (3) (b), 50.097, 50.14 (1) (a), 50.14 (1) (b), 50.14 (2) (bm), 51.06  
9           (8) (a) 1., 51.06 (8) (b) (intro.), 51.06 (8) (b) 4., 51.06 (8) (b) 7., 51.62 (4), 146.40  
10          (title), 146.40 (1) (bo), 146.40 (1) (bt), 146.40 (1) (d), 146.40 (2) (intro.), 146.40  
11          (2) (a), 146.40 (2) (d), 146.40 (2) (e), 146.40 (2) (em), 146.40 (2) (g), 146.40 (3),  
12          146.40 (3m), 146.40 (4), 146.40 (4d) (a), 146.40 (4d) (c), 146.40 (4d) (d), 146.40  
13          (4m), 146.40 (4r) (am) 1., 146.40 (4r) (b), 146.40 (4r) (c), 146.40 (4r) (e), 146.40  
14          (4r) (em), 146.40 (5) (a), 146.40 (5) (b) (intro.), 146.40 (5) (b) 1., 146.40 (5) (b) 2.

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1 (intro.), 146.40 (5) (b) 2. a., 155.20 (2) (a) 2., 155.30 (3), 250.042 (4) (a) 3., 250.042  
2 (4) (b), 250.042 (4) (c) 12., 440.03 (3q), 632.895 (1) (b) 2. and 632.895 (2) (d); **to**  
3 **repeal and recreate** 49.45 (8) (a) 4. and 146.40 (4d) (am); and **to create** 49.45  
4 (8) (a) 2m., 146.40 (1) (aw), 146.40 (2) (c) 1., 146.40 (2) (c) 2. and 146.40 (2m) of  
5 the statutes; **relating to:** changing the terms home health aide, hospice aide,  
6 and nurse’s assistant to the term nurse aide; changing requirements for  
7 instructional and competency evaluation programs for nurse aides; changing  
8 certain requirements for review and investigation of reports of client abuse or  
9 neglect; and requiring the exercise of rule-making authority (suggested as  
10 remedial legislation by the Department of Health and Family Services).

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***Analysis by the Legislative Reference Bureau***

Under current law, numerous requirements apply to the employment or contracting for services of home health aides, hospice aides, and nurse’s assistants by hospitals, nursing homes, intermediate care facilities for the mentally retarded, home health agencies, and hospices. Generally, before being employed or contracting for services, a home health aide, hospice aide, or nurse’s assistant must have successfully completed instruction in an instructional and competency evaluation program certified by the Department of Health and Family Services (DHFS) or a competency evaluation program approved by DHFS or a program that meets the DHFS standards, although this requirement does not apply to certain individuals providing services under one of these classifications who have been employed or under contract for numerous years. DHFS must review the curriculum of an instructional and competency evaluation program every 36 months and may suspend or revoke certification for the program or impose a plan of correction on it; DHFS may also suspend or revoke approval for a competency evaluation program or impose a plan of correction on it. DHFS maintains a registry of individuals who have successfully completed an instructional and competency evaluation program or a competency evaluation program. DHFS maintains another registry of persons, employed by or under contract with a facility, organization, or service that is licensed or certified by or registered with DHFS to provide direct care and treatment to clients, who are reported to have, allegedly, misappropriated the property of a client or neglected or abused a client. Such a facility, organization, or service must report to the Department of Regulation and Licensing (DRL) any such allegation for a person who is licensed, permitted, certified, or registered by DRL, an examining board, or an affiliated credentialing board (credentialed). DHFS must review and

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investigate any such report, and, if the person is credentialed, refer the report to DRL.

Effective January 1, 2009, this bill changes the terms “nurse’s assistant,” “hospice aide,” and “home health aide” to “nurse aide” and changes the term “intermediate care facility for the mentally retarded” to “intermediate care facility for persons with mental retardation.” The bill changes the term “instructional and competency evaluation program” to “instructional program” and requires that DHFS approve, rather than certify, such programs that meet standards specified by DHFS by rule. Further, DHFS must review the curriculum of each approved instructional program every 24 months, rather than 36 months, after the date of approval.

The bill creates a new classification of caregiver, termed a “feeding assistant.” A feeding assistant must successfully complete a state–approved training and testing program to perform one nursing–related duty before being employed by or contracting with a nursing home or intermediate care facility for persons with mental retardation. A nursing home may not use hours of service provided by a feeding assistant in fulfilling certain staffing requirements.

The bill eliminates the requirement that a facility, organization, or service that is licensed or certified by or registered with DHFS report to DRL any allegation, for a person who is credentialed, concerning the misappropriation of property of a client or the neglect or abuse of a client.

The bill eliminates certain exceptions, by persons who have worked for numerous years as home health aides, hospice aides, or nurse’s assistants, to the requirement for successful completion of instructional programs or competency evaluation programs.

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

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:***

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.** 46.275 (5) (b) 4. of the statutes is amended to read:
- 2           46.275 (5) (b) 4. Provide services, except respite care that is approved by the
- 3           department, within a skilled nursing facility, intermediate care facility or
- 4           intermediate care facility for ~~the mentally retarded~~ persons with mental retardation.

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1 as defined in s. 46.278 (1m) (am), including a state center for the developmentally  
2 disabled.

3 **SECTION 2.** 46.278 (1) of the statutes is amended to read:

4 46.278 (1) The intent of the programs under this section is to provide home or  
5 community-based care to serve in a noninstitutional community setting a person  
6 who meets eligibility requirements under 42 USC 1396n (c) and who is diagnosed as  
7 developmentally disabled under the definition specified in s. 51.01 (5) and relocated  
8 from an institution other than a state center for the developmentally disabled or who  
9 meets the intermediate care facility for ~~the mentally retarded~~ persons with mental  
10 retardation or ~~a~~ brain injury rehabilitation facility level of care requirements for  
11 medical assistance reimbursement in an intermediate care facility for ~~the mentally~~  
12 retarded persons with mental retardation or a brain injury rehabilitation facility and  
13 is ineligible for services under s. 46.275 or 46.277. The intent of the program is also  
14 that counties use all existing services for providing care under this section, including  
15 those services currently provided by counties.

16 **SECTION 3.** 46.278 (1m) (am) of the statutes is amended to read:

17 46.278 (1m) (am) “Intermediate care facility for ~~the mentally retarded persons~~  
18 with mental retardation” has the meaning given for “intermediate care facility for  
19 the mentally retarded” under 42 USC 1396d ~~(c) and~~ (d).

20 **SECTION 4.** 46.278 (2) (a) of the statutes is amended to read:

21 46.278 (2) (a) The department may request one or more waivers from the  
22 secretary of the federal department of health and human services, under 42 USC  
23 1396n (c), authorizing the department to serve medical assistance recipients, who  
24 meet the level of care requirements for medical assistance reimbursement in an  
25 intermediate care facility for ~~the mentally retarded~~ persons with mental retardation

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1 or in a brain injury rehabilitation facility, in their communities by providing home  
2 or community-based services as part of medical assistance. If the department  
3 requests a waiver, it shall include all assurances required under 42 USC 1396n (c)  
4 (2) in its request.

5 **SECTION 5.** 46.278 (4) (a) of the statutes is amended to read:

6 46.278 (4) (a) Sections 46.27 (3) (b) and 46.275 (3) (a) and (c) to (e) apply to  
7 county participation in a program, except that services provided in the program shall  
8 substitute for care provided a person in an intermediate care facility for ~~the mentally~~  
9 ~~retarded persons with mental retardation~~ or in a brain injury rehabilitation facility  
10 who meets the intermediate care facility for the mentally retarded persons with  
11 mental retardation or brain injury rehabilitation facility level of care requirements  
12 for medical assistance reimbursement to that facility rather than for care provided  
13 at a state center for the developmentally disabled.

14 **SECTION 6.** 46.278 (5) (a) of the statutes is amended to read:

15 46.278 (5) (a) Any medical assistance recipient who meets the level of care  
16 requirements for medical assistance reimbursement in an intermediate care facility  
17 for ~~the mentally retarded persons with mental retardation~~ or in a brain injury  
18 rehabilitation facility and is ineligible for service under s. 46.275 or 46.277 is eligible  
19 to participate in a program, except that persons eligible for the brain injury waiver  
20 program must meet the definition of brain injury under s. 51.01 (2g), and except that  
21 the number of participants may not exceed the number approved under the waiver  
22 received under sub. (3). Such a recipient may apply, or any person may apply on  
23 behalf of such a recipient, for participation in a program. Section 46.275 (4) (b)  
24 applies to participation in a program.

25 **SECTION 7.** 46.278 (6) (e) 1. a. of the statutes is amended to read:

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1           46.278 (6) (e) 1. a. An intermediate care facility for the ~~mentally retarded~~  
2 persons with mental retardation that closes under s. 50.03 (14).

3           **SECTION 8.** 46.278 (6) (e) 1. b. of the statutes is amended to read:

4           46.278 (6) (e) 1. b. An intermediate care facility for the ~~mentally retarded~~  
5 persons with mental retardation or a distinct part thereof that has a plan of closure  
6 approved by the department and that intends to close within 12 months.

7           **SECTION 9.** 46.278 (6) (e) 1. c. of the statutes is amended to read:

8           46.278 (6) (e) 1. c. An intermediate care facility for the ~~mentally retarded~~  
9 persons with mental retardation that has a plan of closure or significant reduction  
10 in capacity approved by the department and that intends to close or significantly  
11 reduce its capacity within 60 months.

12           **SECTION 10.** 46.279 (1) (b) of the statutes is amended to read:

13           46.279 (1) (b) “Intermediate facility” means has the meaning given for an  
14 intermediate care facility for the mentally retarded, ~~as defined in~~ under 42 USC  
15 1396d (d), other than a center for the developmentally disabled, as defined in s. 51.01  
16 (3).

17           **SECTION 11.** 48.685 (8) of the statutes, as affected by 2007 Wisconsin Act 20,  
18 is amended to read:

19           48.685 (8) The department, the department of health services, a county  
20 department, a child welfare agency, or a school board may charge a fee for obtaining  
21 the information required under sub. (2) (am) or (3) (a) or for providing information  
22 to an entity to enable the entity to comply with sub. (2) (b) 1. or (3) (b). The fee may  
23 not exceed the reasonable cost of obtaining the information. No fee may be charged  
24 to a ~~nurse’s assistant~~ nurse aide, as defined in s. 146.40 (1) (d), for obtaining or  
25 maintaining information if to do so would be inconsistent with federal law.

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1           **SECTION 12.** 49.45 (6m) (am) 1. bm. of the statutes is amended to read:

2           49.45 **(6m)** (am) 1. bm. Nonbillable services of a registered nurse, licensed  
3 practical nurse, and ~~nurse's assistant~~ nurse aide.

4           **SECTION 13.** 49.45 (8) (a) 1. of the statutes is repealed.

5           **SECTION 14.** 49.45 (8) (a) 2m. of the statutes is created to read:

6           49.45 **(8)** (a) 2m. “Nurse aide” has the meaning given in s. 146.40 (1) (d).

7           **SECTION 15.** 49.45 (8) (a) 4. of the statutes, as affected by 2007 Wisconsin Act  
8 20, is repealed and recreated to read:

9           49.45 **(8)** (a) 4. “Patient care visit” means a personal contact with a patient in  
10 a patient’s home that is made by a registered nurse, licensed practical nurse, nurse  
11 aide, physical therapist, occupational therapist, or speech–language pathologist who  
12 is on the staff of or under contract or arrangement with a home health agency, or by  
13 a registered nurse or licensed practical nurse practicing independently, to provide a  
14 service that is covered under s. 49.46, 49.47, or 49.471. “Patient care visit” does not  
15 include time spent by a nurse, therapist, or nurse aide on case management, care  
16 coordination, travel, record keeping, or supervision that is related to the patient care  
17 visit.

18           **SECTION 16.** 49.45 (30m) (a) 2. of the statutes is amended to read:

19           49.45 **(30m)** (a) 2. Services in an intermediate care facility for ~~the mentally~~  
20 ~~retarded~~ persons with mental retardation, as defined in s. 46.278 (1m) (am), other  
21 than a state center for the developmentally disabled.

22           **SECTION 17.** 49.45 (42) (b) of the statutes is amended to read:

23           49.45 **(42)** (b) The individual is not eligible to receive home health aide services  
24 under medicare, as defined in sub. (3) (L) 1. b.

25           **SECTION 18.** 49.498 (1) (h) of the statutes is amended to read:

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1           49.498 (1) (h) “Nurse’s assistant Nurse aide” has the meaning given for “nurse  
2 aide” under 42 USC 1396r (b) (5) (F).

3           **SECTION 19.** 49.498 (2) (e) 1. of the statutes is repealed.

4           **SECTION 20.** 49.498 (2) (e) 2. of the statutes is amended to read:

5           49.498 (2) (e) 2. A nursing facility may not use the individual as a nurse’s  
6 assistant nurse aide unless the nursing facility has inquired of the department  
7 concerning information about the individual in the registry under s. 146.40 (4g).

8           **SECTION 21.** 49.498 (2) (e) 3. of the statutes is amended to read:

9           49.498 (2) (e) 3. A nursing facility shall provide the regular performance review  
10 and regular in-service education that assures that individuals used as nurse’s  
11 assistants nurse aides are competent to perform services as nurse’s assistants nurse  
12 aides, including training for individuals to provide nursing and nursing-related  
13 services to nursing facility residents with cognitive impairments.

14           **SECTION 22.** 50.01 (2) of the statutes is amended to read:

15           50.01 (2) “Nurse’s assistant Nurse aide” means a person who performs routine  
16 patient care duties delegated by a registered nurse or licensed practical nurse who  
17 supervises the person, for the direct health care of a patient or resident. “Nurse’s  
18 assistant Nurse aide” does not mean a feeding assistant, as defined in s. 146.40 (1)  
19 (aw); a person who is licensed, permitted, certified, or registered under ch. 441, 448,  
20 449, 450, 451, 455, 459, or 460; or a person whose duties primarily involve skills that  
21 are different than those taught in instructional programs for nurse’s assistants  
22 nurse aides.

23           **SECTION 23.** 50.04 (2) (c) 2. b. of the statutes is amended to read:

24           50.04 (2) (c) 2. b. A shortage of nurses or nurse’s assistants nurse aides  
25 available for employment by the nursing home exists.



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1           **SECTION 24.** 50.04 (2) (d) (intro.) of the statutes is amended to read:

2           50.04 **(2)** (d) (intro.) Each nursing home, other than nursing homes that  
3 primarily serve the developmentally disabled, shall provide at least the following  
4 hours of service by registered nurses, licensed practical nurses, ~~or nurse's assistants~~  
5 nurse aides and may not use hours of service by a feeding assistant, as defined in s.  
6 146.40 (1) (aw), in fulfilling these requirements:

7           **SECTION 25.** 50.04 (2r) of the statutes is amended to read:

8           50.04 **(2r)** ADMISSIONS REQUIRING APPROVAL. Except in an emergency, a nursing  
9 home that is not certified as a provider of medical assistance or that is an  
10 intermediate care facility for ~~the mentally retarded persons with mental retardation,~~  
11 as defined in s. 46.278 (1m) (am), or an institution for mental diseases, as defined  
12 under 42 CFR 435.1009, may not admit as a resident an individual who has a  
13 developmental disability, as defined in s. 51.01 (5), or who is both under age 65 and  
14 has mental illness, as defined in s. 51.01 (13), unless the county department under  
15 s. 46.23, 51.42 or 51.437 of the individual's county of residence has recommended the  
16 admission.

17           **SECTION 26.** 50.065 (8) of the statutes is amended to read:

18           50.065 **(8)** The department may charge a fee for obtaining the information  
19 required under sub. (2) (am) or (3) (a) or for providing information to an entity to  
20 enable the entity to comply with sub. (2) (b) or (3) (b). No fee may be charged to a  
21 ~~nurse's assistant~~ nurse aide, as defined in s. 146.40 (1) (d), for obtaining or  
22 maintaining the information if to do so would be inconsistent with federal law.

23           **SECTION 27.** 50.095 (3) (b) of the statutes is amended to read:

24           50.095 **(3)** (b) The staff replacement rates for full-time and part-time nursing  
25 staff, ~~nurse's assistants~~ nurse aides, and administrators for the previous year for the

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1 nursing home and for all similar nursing homes in the same geographical area, as  
2 determined by the department.

3 **SECTION 28.** 50.097 of the statutes is amended to read:

4 **50.097 Registry.** Any person may receive, upon specific written request to the  
5 department, requested information that is contained in the registry of nurse's  
6 assistants and home health aides individuals under s. 146.40 (4g) (a) or that is  
7 contained in the registry of hospice aides under s. 146.40 (4g) (a) 1.

8 **SECTION 29.** 50.14 (1) (a) of the statutes is amended to read:

9 50.14 (1) (a) Notwithstanding s. 50.01 (1m), “facility” means a nursing home  
10 or an intermediate care facility for the ~~mentally retarded~~ persons with mental  
11 retardation that is not located outside the state.

12 **SECTION 30.** 50.14 (1) (b) of the statutes is amended to read:

13 50.14 (1) (b) “Intermediate care facility for the ~~mentally retarded~~ persons with  
14 mental retardation” has the meaning given for “intermediate care facility for the  
15 mentally retarded” under 42 USC 1396d (e) ~~and~~ (d).

16 **SECTION 31.** 50.14 (2) (bm) of the statutes, as created by 2007 Wisconsin Act  
17 20, is amended to read:

18 50.14 (2) (bm) For intermediate care facilities for the ~~mentally retarded~~  
19 persons with mental retardation, an amount calculated by multiplying the projected  
20 annual gross revenues of all intermediate care facilities for the ~~mentally retarded~~  
21 persons with mental retardation in this state by 0.055, dividing the product by the  
22 number of licensed beds of intermediate care facilities for persons with mental  
23 retardation in this state and dividing the quotient by 12.

24 **SECTION 32.** 51.06 (8) (a) 1. of the statutes is amended to read:

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1           51.06 (8) (a) 1. “Intermediate care facility for ~~the mentally retarded persons~~  
2           with mental retardation” has the meaning given in ~~for~~ “intermediate care facility for  
3           the mentally retarded” under 42 USC 1396d (d).

4           **SECTION 33.** 51.06 (8) (b) (intro.) of the statutes is amended to read:

5           51.06 (8) (b) (intro.) Annually by October 1, the department shall submit to the  
6           joint committee on finance and to the appropriate standing committees of the  
7           legislature under s. 13.172 (3) a report that includes information collected from the  
8           previous fiscal year on the relocation or diversion of individuals who are Medical  
9           Assistance eligibles or recipients from nursing homes, intermediate care facilities for  
10          ~~the mentally retarded persons with mental retardation~~, and centers for the  
11          developmentally disabled. The report shall include all of the following information:

12          **SECTION 34.** 51.06 (8) (b) 4. of the statutes is amended to read:

13          51.06 (8) (b) 4. An accounting of the costs and savings under the Medical  
14          Assistance program of relocations and diversions and the resulting reduction in  
15          capacity for services of nursing homes, intermediate care facilities for ~~the mentally~~  
16          ~~retarded~~ persons with mental retardation, and centers for the developmentally  
17          disabled. The accounting shall include the per individual savings as well as the  
18          collective savings of relocations and diversions.

19          **SECTION 35.** 51.06 (8) (b) 7. of the statutes is amended to read:

20          51.06 (8) (b) 7. Staff turnover rates for nursing homes, intermediate care  
21          facilities for ~~the mentally retarded~~ persons with mental retardation, and centers for  
22          the developmentally disabled in communities in which an individual relocated or  
23          diverted from a nursing home, intermediate care facility for ~~the mentally retarded~~  
24          persons with mental retardation, or center for the developmentally disabled  
25          currently resides.

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1           **SECTION 36.** 51.62 (4) of the statutes is amended to read:

2           51.62 **(4)** DEPARTMENTAL DUTIES. The department shall provide the protection  
3 and advocacy agency with copies of annual surveys and plans of correction for  
4 intermediate care facilities for ~~the mentally retarded~~ persons with mental  
5 retardation on or before the first day of the 2nd month commencing after completion  
6 of the survey or plan.

7           **SECTION 37.** 146.40 (title) of the statutes is amended to read:

8           **146.40 (title) Instructional programs for nurse's nurse aides; reporting**  
9 **client abuse.**

10          **SECTION 38.** 146.40 (1) (aw) of the statutes is created to read:

11          146.40 **(1)** (aw) “Feeding assistant” means an individual who has completed a  
12 state-approved training and testing program, as specified by the department by  
13 rule, to perform one nursing-related duty, as defined by the department by rule.

14          **SECTION 39.** 146.40 (1) (bm) of the statutes is repealed.

15          **SECTION 40.** 146.40 (1) (bo) of the statutes is amended to read:

16          146.40 **(1)** (bo) “Hospice” means a hospice that is licensed under subch. IV of  
17 ch. 50 and that is certified as a provider of services under 42 USC 1395 to 1395ccc.

18          **SECTION 41.** 146.40 (1) (bp) of the statutes is repealed.

19          **SECTION 42.** 146.40 (1) (bt) of the statutes is amended to read:

20          146.40 **(1)** (bt) “Intermediate care facility for ~~the mentally retarded~~ persons  
21 with mental retardation” has the meaning given for “intermediate care facility for  
22 the mentally retarded” under 42 USC 1396d ~~(c) and (d)~~.

23          **SECTION 43.** 146.40 (1) (d) of the statutes is amended to read:

24          146.40 **(1)** (d) “Nurse’s ~~assistant~~ Nurse aide” means an individual who  
25 performs routine patient care duties delegated by a registered nurse or licensed

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1 practical nurse who supervises the individual, for the direct health care of a patient  
2 or resident. “Nurse’s assistant Nurse aide” does not mean a feeding assistant, an  
3 individual who is licensed, permitted, certified, or registered under ch. 441, 448, 449,  
4 450, 451, 455, 459, or 460, or an individual whose duties primarily involve skills that  
5 are different than those taught in instructional ~~and competency evaluation~~  
6 programs for ~~nurse’s assistants certified~~ nurse aides approved under sub. (3) or  
7 evaluated by competency evaluation programs for ~~nurse’s assistants~~ nurse aides  
8 approved under sub. (3m).

9 **SECTION 44.** 146.40 (2) (intro.) of the statutes is amended to read:

10 146.40 (2) (intro.) A hospital, nursing home ~~or~~, intermediate care facility for the  
11 mentally retarded persons with mental retardation, home health agency, or hospice  
12 may not employ or contract for the services of an individual as a ~~nurse’s assistant,~~  
13 ~~a home health agency may not employ or contract for the services of an individual~~  
14 ~~as a home health aide and a hospice may not employ or contract for the services of~~  
15 ~~an individual as a hospice~~ nurse aide, regardless of the title under which the  
16 individual is employed or contracted for, unless one of the following is true:

17 **SECTION 45.** 146.40 (2) (a) of the statutes is amended to read:

18 146.40 (2) (a) ~~For hospitals, nursing homes, home health agencies or hospices,~~  
19 ~~whether or not certified providers of medical assistance, except as provided in par.~~  
20 ~~(g), and intermediate care facilities for the mentally retarded that are certified~~  
21 ~~providers of medical assistance, the~~ The individual has successfully completed  
22 instruction in an instructional and competency evaluation program for nurse’s  
23 assistants, home health aides or hospice nurse aides that is certified by the  
24 department approved under sub. (3) and has successfully completed a competency  
25 evaluation program that is approved under sub. (3m).

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1           **SECTION 46.** 146.40 (2) (am) of the statutes is repealed.

2           **SECTION 47.** 146.40 (2) (b) of the statutes is repealed.

3           **SECTION 48.** 146.40 (2) (bm) of the statutes is repealed.

4           **SECTION 49.** 146.40 (2) (c) of the statutes is renumbered 146.40 (2) (c) (intro.)

5 and amended to read:

6           146.40 (2) (c) (intro.) For hospitals, nursing homes, home health agencies or  
7 hospices, whether or not certified providers of medical assistance, and intermediate  
8 care facilities ~~for the mentally retarded~~ persons with mental retardation that are  
9 certified providers of medical assistance, the individual is enrolled in an  
10 instructional program for nurse aides that is approved under sub. (3) and is  
11 employed or under contract as a nurse's assistant, home health aide or hospice aide  
12 fewer than 120 calendar days by the hospital, nursing home, home health agency,  
13 hospice or intermediate care facility for the mentally retarded. All of the following  
14 applies to an individual specified under this paragraph:

15           **SECTION 50.** 146.40 (2) (c) 1. of the statutes is created to read:

16           146.40 (2) (c) 1. He or she may perform only services for which he or she has  
17 received training and has been found proficient by an instructor under the  
18 instructional program.

19           **SECTION 51.** 146.40 (2) (c) 2. of the statutes is created to read:

20           146.40 (2) (c) 2. The hospital, nursing home, home health agency, hospice, or  
21 intermediate care facility for persons with mental retardation may not include the  
22 individual in meeting or complying with a requirement for nursing care staff and  
23 functions, including a minimum nursing staff requirement.

24           **SECTION 52.** 146.40 (2) (d) of the statutes is amended to read:

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1           146.40 (2) (d) For hospitals, nursing homes, home health agencies, or hospices,  
2           whether or not certified providers of medical assistance, and intermediate care  
3           facilities for ~~the mentally retarded~~ persons with mental retardation that are certified  
4           providers of medical assistance, the individual has successfully completed  
5           ~~instruction in an instructional and competency evaluation program or has~~  
6           ~~successfully completed~~ and a competency evaluation program for nurse's assistants,  
7           ~~for home health aides or for hospice~~ nurse aides that is certified in another state that  
8           meets criteria for acceptance in this state as specified by the department by rule, ~~or~~  
9           ~~the individual is certified as a nurse's assistant, home health aide or hospice aide in~~  
10          ~~another state that meets criteria for acceptance in this state as specified by the~~  
11          ~~department by rule, except that after December 31, 1991, par. (a) applies.~~

12           **SECTION 53.** 146.40 (2) (e) of the statutes is amended to read:

13           146.40 (2) (e) For hospitals, home health agencies, or hospices, whether or not  
14          certified providers of medical assistance, nursing homes that are not certified  
15          providers of medical assistance and intermediate care facilities for ~~the mentally~~  
16          ~~retarded~~ persons with mental retardation that are certified providers of medical  
17          assistance, the individual is a student nurse who has successfully completed a basic  
18          nursing course from a school that is on the accredited list of schools specified under  
19          s. 441.01 (4) or who successfully completes a competency evaluation program for  
20          ~~nurse's assistants, home health aides or hospice~~ nurse aides that is approved by the  
21          department under sub. (3m).

22           **SECTION 54.** 146.40 (2) (em) of the statutes is amended to read:

23           146.40 (2) (em) For nursing homes that are certified providers of medical  
24          assistance, the individual is a student nurse who successfully completes a

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1 competency evaluation program for ~~nurse's assistants~~ nurse aides that is approved  
2 by the department under sub. (3m).

3 **SECTION 55.** 146.40 (2) (f) of the statutes is repealed.

4 **SECTION 56.** 146.40 (2) (g) of the statutes is amended to read:

5 146.40 (2) (g) For hospitals, nursing homes, home health agencies, or hospices,  
6 whether or not certified providers of medical assistance, and intermediate care  
7 facilities for persons with mental retardation that are certified providers of medical  
8 assistance, the individual, if he or she has performed no nursing-related service for  
9 monetary compensation for 24 consecutive months after having satisfied the  
10 requirement under par. (a), again successfully completes ~~instruction in an~~  
11 ~~instructional and a~~ competency evaluation program for ~~nurse's assistants~~ nurse  
12 aides that is certified approved by the department under ~~sub. (3) or a competency~~  
13 ~~evaluation program for nurse's assistants that is approved by the department~~ under  
14 sub. (3m).

15 **SECTION 57.** 146.40 (2m) of the statutes is created to read:

16 146.40 (2m) A nursing home or intermediate care facility for persons with  
17 mental retardation, whether or not the nursing home or intermediate care facility  
18 is a certified provider of medical assistance, may not employ or contract for the  
19 services of an individual as a feeding assistant, regardless of the title under which  
20 the individual is employed or contracted for, unless the individual has successfully  
21 completed a state-approved training and testing program, as specified by the  
22 department by rule.

23 **SECTION 58.** 146.40 (3) of the statutes is amended to read:

24 146.40 (3) Except as provided in sub. (4d), the department shall ~~certify~~ approve  
25 ~~instructional and competency evaluation programs for nurse's assistants, for home~~



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1 ~~health aides and for hospice~~ nurse aides that apply for certification, and satisfy  
2 standards for certification, approval that are promulgated by rule by the  
3 department. The department shall review the curriculum of each ~~certified~~ approved  
4 instructional and ~~competency evaluation~~ program at least once every ~~36~~ 24 months  
5 following the date of certification approval to determine whether the program  
6 satisfies continues to satisfy the standards for certification approval. Under this  
7 subsection, the department may, after providing notice, suspend or revoke the  
8 certification approval of an instructional and ~~competency evaluation~~ program or  
9 impose a plan of correction on the program if the program ~~does not~~ fails to satisfy the  
10 standards for ~~certification~~ approval or operates under conditions that are other than  
11 those contained in the application approved by the department.

12 **SECTION 59.** 146.40 (3m) of the statutes is amended to read:

13 146.40 **(3m)** The department shall review competency evaluation programs for  
14 ~~nurse's assistants, for home health aides and for hospice~~ nurse aides and, except as  
15 provided in sub. (4d), may approve those competency evaluation programs that  
16 satisfy standards for approval that are specified in rules of promulgated by the  
17 department. Under this subsection, the department may, after providing notice,  
18 suspend or revoke approval of a competency evaluation program or impose a plan of  
19 correction on the program if the competency evaluation program fails to satisfy the  
20 standards for approval or operates under conditions that are other than those  
21 contained in the application approved by the department.

22 **SECTION 60.** 146.40 (4) of the statutes is amended to read:

23 146.40 **(4)** ~~An instructional and A~~ competency evaluation program certified  
24 under sub. (3) or a competency evaluation program approved under sub. (3m) shall  
25 notify the department, ~~on a form provided by the department, within 30 days to~~

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1 include an individual on the registry under sub. (4g) (a) 1. after an the individual has  
2 successfully completed the program competency examination.

3 **SECTION 61.** 146.40 (4d) (a) of the statutes is amended to read:

4 146.40 **(4d)** (a) Except as provided in par. (am), the department shall require  
5 each applicant to provide the department with his or her social security number, if  
6 the applicant is an individual, or the applicant's federal employer identification  
7 number, if the applicant is not an individual, as a condition of issuing ~~a certification~~  
8 an approval under sub. (3) or ~~an approval under sub. (3m).~~

9 **SECTION 62.** 146.40 (4d) (am) of the statutes, as affected by 2007 Wisconsin Act  
10 20, is repealed and recreated to read:

11 146.40 **(4d)** (am) If an individual specified under par. (a) does not have a social  
12 security number, the individual, as a condition of obtaining approval, shall submit  
13 a statement made or subscribed under oath or affirmation to the department that the  
14 applicant does not have a social security number. The form of the statement shall  
15 be prescribed by the department of children and families. An approval issued in  
16 reliance upon a false statement submitted under this paragraph is invalid.

17 **SECTION 63.** 146.40 (4d) (c) of the statutes is amended to read:

18 146.40 **(4d)** (c) Except as provided in par. (am), the department shall deny an  
19 application for the issuance of ~~a certification or an approval~~ an approval specified in par. (a) if  
20 the applicant does not provide the information specified in par. (a).

21 **SECTION 64.** 146.40 (4d) (d) of the statutes is amended to read:

22 146.40 **(4d)** (d) The department shall deny an application for the issuance of  
23 ~~a certification or an approval~~ an approval specified in par. (a) or shall revoke ~~a certification or~~  
24 an approval if the department of revenue certifies under s. 73.0301 that the applicant  
25 for or holder of ~~a certification or an approval~~ is liable for delinquent taxes.

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1           **SECTION 65.** 146.40 (4m) of the statutes is amended to read:

2           146.40 **(4m)** An instructional and ~~competency evaluation~~ program under sub.  
3 (3) for which the department has suspended or revoked ~~certification~~ approval or  
4 imposed a plan of correction or a competency evaluation program under sub. (3m) for  
5 which the department has suspended or revoked approval or imposed a plan of  
6 correction may contest the department's action by sending, within 10 days after  
7 receipt of notice of the contested action, a written request for hearing under s. 227.44  
8 to the division of hearings and appeals created under s. 15.103 (1). The  
9 administrator of the division may designate a hearing examiner to preside over the  
10 case and recommend a decision to the administrator under s. 227.46. The decision  
11 of the administrator of the division shall be the final administrative decision. The  
12 division shall commence the hearing within 30 days after receipt of the request for  
13 hearing and shall issue a final decision within 15 days after the close of the hearing.  
14 Proceedings before the division are governed by ch. 227. In any petition for judicial  
15 review of a decision by the division, the party, other than the petitioner, who was in  
16 the proceeding before the division shall be the named respondent. This subsection  
17 does not apply to a revocation of ~~certification~~ approval under sub. (4d) (d).

18           **SECTION 66.** 146.40 (4r) (am) 1. of the statutes is amended to read:

19           146.40 **(4r)** (am) 1. ~~Except as provided in subd. 2., an~~ An entity shall report to  
20 the department any allegation of misappropriation of the property of a client or of  
21 neglect or abuse of a client by any ~~person~~ individual employed by or under contract  
22 with the entity if the ~~person~~ individual is under the control of the entity.

23           **SECTION 67.** 146.40 (4r) (am) 2. of the statutes is repealed.

24           **SECTION 68.** 146.40 (4r) (b) of the statutes is amended to read:

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1           146.40 (4r) (b) Except as provided in pars. (em) and (er), the department shall  
2 review and investigate any report received under par. (a) or (am) and, if the  
3 allegation is substantiated, make specific, documented findings concerning the  
4 misappropriation of property or the neglect or abuse. The department shall, in  
5 writing ~~by certified mail,~~ notify the ~~person~~ individual specified in the report that the  
6 ~~person's~~ individual's name and the department's findings about the ~~person~~  
7 individual shall be listed in the registry under sub. (4g) (a) 2. and 3. unless the ~~person~~  
8 individual contests the listings in a hearing before the division of hearings and  
9 appeals created under s. 15.103 (1). The written notification shall describe the  
10 investigation conducted by the department, enumerate the findings alleging  
11 misappropriation of property or neglect or abuse of a client and explain the  
12 consequence to the ~~person~~ individual specified in the report of waiving a hearing to  
13 contest the findings. The ~~person~~ individual specified in the report shall have 30  
14 calendar days after receipt of the notification to indicate to the department in writing  
15 whether he or she intends to contest the listing or to waive the hearing.

16           **SECTION 69.** 146.40 (4r) (c) of the statutes is amended to read:

17           146.40 (4r) (c) If ~~the nurse's assistant or home health aide~~ an individual under  
18 par. (b) notifies the department that he or she waives a hearing to contest the listings  
19 in the registry under par. (b), or fails to notify the department within 30 calendar  
20 days after receipt of a notice under par. (b), the department shall enter the name of  
21 the individual under sub. (4g) (a) 2. and the department's findings about the  
22 individual under sub. (4g) (a) 3.

23           **SECTION 70.** 146.40 (4r) (e) of the statutes is amended to read:

24           146.40 (4r) (e) The ~~nurse's assistant or home health aide~~ individual may  
25 provide the department with a brief statement disputing the department's findings

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1 under par. (b) or the hearing officer's findings under par. (d) and, if so provided, the  
2 department shall enter the statement under sub. (4g) (a) 4.

3 **SECTION 71.** 146.40 (4r) (em) of the statutes is amended to read:

4 146.40 (4r) (em) If the department of health and family services receives a  
5 report under par. (a) or (am) and determines that ~~a person~~ an individual who is the  
6 subject of the report holds a credential that is related to the person's individual's  
7 employment at, or contract with, the entity, the department of health and family  
8 services shall refer the report to the department of regulation and licensing.

9 **SECTION 72.** 146.40 (5) (a) of the statutes is amended to read:

10 146.40 (5) (a) The department, ~~in consultation with the technical college~~  
11 ~~system board,~~ shall promulgate rules specifying standards for certification approval  
12 in this state of instructional programs and competency evaluation programs for  
13 ~~nurse's assistants, home health aides and hospice~~ nurse aides. The standards shall  
14 include specialized training in providing care to individuals with special needs.

15 **SECTION 73.** 146.40 (5) (b) (intro.) of the statutes is amended to read:

16 146.40 (5) (b) (intro.) The department shall promulgate rules specifying  
17 criteria for acceptance by this state of an instructional program and a competency  
18 evaluation program ~~or a competency evaluation program~~ that is certified in another  
19 state, including whether the other state grants ~~nurse's assistant privileges, home~~  
20 ~~health aide privileges or hospice~~ nurse aide privileges to persons who have completed  
21 instruction in an instructional and competency evaluation program that is certified  
22 approved under sub. (3) and whether one of the following is true:

23 **SECTION 74.** 146.40 (5) (b) 1. of the statutes is amended to read:

24 146.40 (5) (b) 1. If the other state certifies instructional programs and  
25 competency evaluation programs for ~~nurse's assistants, home health aides or hospice~~

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1 nurse aides, the state's requirements are substantially similar, as determined by the  
2 department, to certification requirements in this state.

3 **SECTION 75.** 146.40 (5) (b) 2. (intro.) of the statutes is amended to read:

4 146.40 (5) (b) 2. (intro.) If the other state certifies ~~nurse's assistants, home~~  
5 ~~health aides or hospice~~ nurse aides, that state's requirements are such that one of  
6 the following applies:

7 **SECTION 76.** 146.40 (5) (b) 2. a. of the statutes is amended to read:

8 146.40 (5) (b) 2. a. The instructional ~~and competency evaluation~~ programs  
9 required for attendance by persons receiving certificates are substantially similar,  
10 as determined by the department, to instructional ~~and competency evaluation~~  
11 programs ~~certified~~ approved under sub. (3).

12 **SECTION 77.** 155.20 (2) (a) 2. of the statutes is amended to read:

13 155.20 (2) (a) 2. An intermediate care facility for ~~the mentally retarded persons~~  
14 with mental retardation, as defined in s. 46.278 (1m) (am).

15 **SECTION 78.** 155.30 (3) of the statutes is amended to read:

16 155.30 (3) The department shall prepare and provide copies of a power of  
17 attorney for health care instrument and accompanying information for distribution  
18 in quantities to health care professionals, hospitals, nursing homes, multipurpose  
19 senior centers, county clerks, and local bar associations and individually to private  
20 persons. The department shall include, in information accompanying the copy of the  
21 instrument, at least the statutory definitions of terms used in the instrument,  
22 statutory restrictions on who may be witnesses to a valid instrument, a statement  
23 explaining that valid witnesses acting in good faith are statutorily immune from civil  
24 or criminal liability and a statement explaining that an instrument may, but need  
25 not, be filed with the register in probate of the principal's county of residence. The

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1 department may charge a reasonable fee for the cost of preparation and distribution.  
2 The power of attorney for health care instrument distributed by the department  
3 shall include the notice specified in sub. (1) and shall be in the following form:

## POWER OF ATTORNEY

## FOR HEALTH CARE

6 Document made this.... day of.... (month),.... (year).

## CREATION OF POWER OF

## ATTORNEY FOR HEALTH CARE

9 I,.... (print name, address and date of birth), being of sound mind, intend by this  
10 document to create a power of attorney for health care. My executing this power of  
11 attorney for health care is voluntary. Despite the creation of this power of attorney  
12 for health care, I expect to be fully informed about and allowed to participate in any  
13 health care decision for me, to the extent that I am able. For the purposes of this  
14 document, “health care decision” means an informed decision to accept, maintain,  
15 discontinue or refuse any care, treatment, service or procedure to maintain, diagnose  
16 or treat my physical or mental condition.

17 In addition, I may, by this document, specify my wishes with respect to making  
18 an anatomical gift upon my death.

## DESIGNATION OF HEALTH CARE AGENT

20 If I am no longer able to make health care decisions for myself, due to my  
21 incapacity, I hereby designate.... (print name, address and telephone number) to be  
22 my health care agent for the purpose of making health care decisions on my behalf.  
23 If he or she is ever unable or unwilling to do so, I hereby designate.... (print name,  
24 address and telephone number) to be my alternate health care agent for the purpose  
25 of making health care decisions on my behalf. Neither my health care agent nor my

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1 alternate health care agent whom I have designated is my health care provider, an  
2 employee of my health care provider, an employee of a health care facility in which  
3 I am a patient or a spouse of any of those persons, unless he or she is also my relative.  
4 For purposes of this document, “incapacity” exists if 2 physicians or a physician and  
5 a psychologist who have personally examined me sign a statement that specifically  
6 expresses their opinion that I have a condition that means that I am unable to receive  
7 and evaluate information effectively or to communicate decisions to such an extent  
8 that I lack the capacity to manage my health care decisions. A copy of that statement  
9 must be attached to this document.

**GENERAL STATEMENT OF****AUTHORITY GRANTED**

12 Unless I have specified otherwise in this document, if I ever have incapacity I  
13 instruct my health care provider to obtain the health care decision of my health care  
14 agent, if I need treatment, for all of my health care and treatment. I have discussed  
15 my desires thoroughly with my health care agent and believe that he or she  
16 understands my philosophy regarding the health care decisions I would make if I  
17 were able. I desire that my wishes be carried out through the authority given to my  
18 health care agent under this document.

19 If I am unable, due to my incapacity, to make a health care decision, my health  
20 care agent is instructed to make the health care decision for me, but my health care  
21 agent should try to discuss with me any specific proposed health care if I am able to  
22 communicate in any manner, including by blinking my eyes. If this communication  
23 cannot be made, my health care agent shall base his or her decision on any health  
24 care choices that I have expressed prior to the time of the decision. If I have not  
25 expressed a health care choice about the health care in question and communication



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1 cannot be made, my health care agent shall base his or her health care decision on  
2 what he or she believes to be in my best interest.

3 **LIMITATIONS ON**  
4 **MENTAL HEALTH TREATMENT**

5 My health care agent may not admit or commit me on an inpatient basis to an  
6 institution for mental diseases, an intermediate care facility for ~~the mentally~~  
7 retarded persons with mental retardation, a state treatment facility or a treatment  
8 facility. My health care agent may not consent to experimental mental health  
9 research or psychosurgery, electroconvulsive treatment or drastic mental health  
10 treatment procedures for me.

11 **ADMISSION TO NURSING HOMES**  
12 **OR COMMUNITY-BASED RESIDENTIAL FACILITIES**

13 My health care agent may admit me to a nursing home or community-based  
14 residential facility for short-term stays for recuperative care or respite care.

15 If I have checked “Yes” to the following, my health care agent may admit me for  
16 a purpose other than recuperative care or respite care, but if I have checked “No” to  
17 the following, my health care agent may not so admit me:

- 18 1. A nursing home — Yes.... No....  
19 2. A community-based residential facility — Yes.... No....

20 If I have not checked either “Yes” or “No” immediately above, my health care  
21 agent may admit me only for short-term stays for recuperative care or respite care.

22 **PROVISION OF A FEEDING TUBE**

23 If I have checked “Yes” to the following, my health care agent may have a  
24 feeding tube withheld or withdrawn from me, unless my physician has advised that,  
25 in his or her professional judgment, this will cause me pain or will reduce my comfort.

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1 If I have checked “No” to the following, my health care agent may not have a feeding  
2 tube withheld or withdrawn from me.

3 My health care agent may not have orally ingested nutrition or hydration  
4 withheld or withdrawn from me unless provision of the nutrition or hydration is  
5 medically contraindicated.

6 Withhold or withdraw a feeding tube — Yes.... No....

7 If I have not checked either “Yes” or “No” immediately above, my health care  
8 agent may not have a feeding tube withdrawn from me.

9 HEALTH CARE DECISIONS

10 FOR PREGNANT WOMEN

11 If I have checked “Yes” to the following, my health care agent may make health  
12 care decisions for me even if my agent knows I am pregnant. If I have checked “No”  
13 to the following, my health care agent may not make health care decisions for me if  
14 my health care agent knows I am pregnant.

15 Health care decision if I am pregnant — Yes.... No....

16 If I have not checked either “Yes” or “No” immediately above, my health care  
17 agent may not make health care decisions for me if my health care agent knows I am  
18 pregnant.

19 STATEMENT OF DESIRES, SPECIAL

20 PROVISIONS OR LIMITATIONS

21 In exercising authority under this document, my health care agent shall act  
22 consistently with my following stated desires, if any, and is subject to any special  
23 provisions or limitations that I specify. The following are specific desires, provisions  
24 or limitations that I wish to state (add more items if needed):

25 1) –



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1 inpatient health care facility in which the declarant is a patient. I am not the  
2 principal's health care agent. To the best of my knowledge, I am not entitled to and  
3 do not have a claim on the principal's estate.

4 Witness No. 1:

5 (print) Name.... Date....

6 Address....

7 Signature....

8 Witness No. 2:

9 (print) Name.... Date....

10 Address....

11 Signature....

12 STATEMENT OF HEALTH CARE AGENT  
13 AND ALTERNATE HEALTH CARE AGENT

14 I understand that.... (name of principal) has designated me to be his or her  
15 health care agent or alternate health care agent if he or she is ever found to have  
16 incapacity and unable to make health care decisions himself or herself. .... (name of  
17 principal) has discussed his or her desires regarding health care decisions with me.

18 Agent's signature....

19 Address....

20 Alternate's signature....

21 Address....

22 Failure to execute a power of attorney for health care document under chapter  
23 155 of the Wisconsin Statutes creates no presumption about the intent of any  
24 individual with regard to his or her health care decisions.



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1           250.042 (4) (b) A behavioral health provider, health care provider, pupil  
2 services provider, or substance abuse prevention provider who, during a state of  
3 emergency declared under s. 166.03 (1) (b) 1. or 166.23, provides behavioral health  
4 services, health care services, pupil services, or substance abuse prevention services  
5 for which the behavioral health provider, health care provider, pupil services  
6 provider, or substance abuse prevention provider has been licensed or certified or, as  
7 a ~~nurse's assistant~~ nurse aide, has met requirements under s. 146.40, is, for the  
8 provision of these services a state agent of the department for purposes of ss. 165.25  
9 (6), 893.82, and 895.46 and is an employee of the state for purposes of worker's  
10 compensation benefits. The behavioral health services, health care services, pupil  
11 services, or substance abuse prevention services shall be provided on behalf of a  
12 health care facility on a voluntary, unpaid basis, except that the behavioral health  
13 provider, health care provider, pupil services provider, or substance abuse  
14 prevention provider may accept reimbursement for travel, lodging, and meals.

15           **SECTION 81.** 250.042 (4) (c) 12. of the statutes is amended to read:

16           250.042 (4) (c) 12. A ~~nurse's assistant~~ nurse aide whose name is listed under  
17 s. 146.40 (4g) (a) 2., 2005 stats., or a nurse aide whose name is listed under s. 146.40  
18 (4g) (a) 2.

19           **SECTION 82.** 440.03 (3q) of the statutes is amended to read:

20           440.03 (3q) Notwithstanding sub. (3m), the department of regulation and  
21 licensing shall investigate any report that it receives under s. 146.40 (4r) ~~(am) 2. or~~  
22 (em).

23           **SECTION 83.** 632.895 (1) (b) 2. of the statutes is amended to read:

24           632.895 (1) (b) 2. Part-time or intermittent home health aide services which  
25 that are medically necessary as part of the home care plan, under the supervision of

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1 a registered nurse or medical social worker, which consist solely of caring for the  
2 patient.

3 **SECTION 84.** 632.895 (2) (d) of the statutes is amended to read:

4 632.895 (2) (d) Each visit by a person providing services under a home care plan  
5 or evaluating the need for or developing a plan shall be considered as one home care  
6 visit. The policy may contain a limit on the number of home care visits, but not less  
7 than 40 visits in any 12-month period, for each person covered under the policy. Up  
8 to 4 consecutive hours in a 24-hour period of home health aide service shall be  
9 considered as one home care visit.

10 **SECTION 85. Effective date.**

11 (1) This act takes effect on January 1, 2009.

12

(END)