

## 2009 DRAFTING REQUEST

### Assembly Substitute Amendment (ASA-AB259)

Received: 10/09/2009

Received By: rryan

Wanted: As time permits

Identical to LRB:

For: Peggy Krusick (608) 266-1733

By/Representing: Christian Moran

This file may be shown to any legislator: NO

Drafter: rryan

May Contact:

Addl. Drafters:

Subject: Health - facility licensure

Extra Copies: TJD

Submit via email: YES

Requester's email: Rep.Krusick@legis.wisconsin.gov

Carbon copy (CC:) to:

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#### Pre Topic:

No specific pre topic given

---

#### Topic:

Disclosure regarding specialized treatment for Alzhemier's disease

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#### 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 10/09/2009	bkraft 10/09/2009	jfrantze 10/12/2009	_____	mbarman 10/12/2009		
/1	rryan 10/21/2009	bkraft 10/21/2009	jfrantze 10/22/2009	_____	cduerst 10/22/2009	cduerst 10/22/2009	
/2	rryan 01/26/2010	bkraft 01/26/2010	mduchek 01/26/2010	_____	lparisi 01/26/2010	lparisi 01/26/2010	

FE Sent For:

**<END>**

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/P1	rryan 10/09/2009	bkraft 10/09/2009	jfrantze 10/12/2009	_____	mbarman 10/12/2009		
/1	rryan 10/21/2009	bkraft 10/21/2009	jfrantze 10/22/2009	_____	cdurst 10/22/2009	cdurst 10/22/2009	

FE Sent For:

1/2 bjk 1/26

<END>

Jacket  
Returned  
1/22

RS  
1/26

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/?							
/P1	rryan 10/09/2009	bkraft 10/09/2009	jfrantze 10/12/2009	_____	mbarman 10/12/2009		

FE Sent For:

1 bjk 10/21

Jb  
10/22

MDRS  
10/22  
<END>

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**Pre Topic:**

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**Topic:**

Disclosure regarding specialized treatment for Alzhemier's disease

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**Instructions:**

See attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1?	rryan	1/Pl bjk 10/9	to	10/12	12/12		

FE Sent For:

<END>

**Ryan, Robin**

---

**From:** Dodge, Tamara  
**Sent:** Friday, October 02, 2009 1:46 PM  
**To:** Ryan, Robin  
**Subject:** FW: request for sub amendment to AB 259  
**Attachments:** Mn stats 2008-325F 72 - Alz units.pdf

It's LRB-0656

**Tamara J. Dodge**

Attorney  
Wisconsin Legislative Reference Bureau  
P.O. Box 2037  
Madison, WI 53701-2037  
(608) 267 - 7380  
tamara.dodge@legis.wisconsin.gov

---

**From:** Moran, Christian  
**Sent:** Friday, October 02, 2009 1:40 PM  
**To:** Dodge, Tamara  
**Cc:** Rose, Laura  
**Subject:** request for sub amendment to AB 259

Hi Tami,

Could you please draft a substitute amendment to AB 259 that mirrors the attached 2008 Minnesota law requiring certain written disclosure by programs or units that provide special Alzheimer's care. Please add the following to Subd. 2 (6):

(6) frequency and type of programs and activities for residents of the special care unit and how these specialized programs and activities incorporate the life stories and special needs of the resident with dementia.

Please feel free to call me with any questions. Thanks for your help.

-Christian

Christian Moran  
Office of Representative Peggy Krusick  
State Capitol, 128 North  
Madison, WI 53708  
(608) 266-1733

10/06/2009

**325F.72 DISCLOSURE OF SPECIAL CARE STATUS REQUIRED.**

Subdivision 1. **Persons to whom disclosure is required.** Housing with services establishments, as defined in sections 144D.01 to 144D.07, that secure, segregate, or provide a special program or special unit for residents with a diagnosis of probable Alzheimer's disease or a related disorder or that advertise, market, or otherwise promote the establishment as providing specialized care for Alzheimer's disease or a related disorder are considered a "special care unit." All special care units shall provide a written disclosure to the following:

- (1) the commissioner of health, if requested;
- (2) the Office of Ombudsman for Long-Term Care; and
- (3) each person seeking placement within a residence, or the person's authorized representative, before an agreement to provide the care is entered into.

Subd. 2. **Content.** Written disclosure shall include, but is not limited to, the following:

- (1) a statement of the overall philosophy and how it reflects the special needs of residents with Alzheimer's disease or other dementias;
- (2) the criteria for determining who may reside in the special care unit;
- (3) the process used for assessment and establishment of the service plan or agreement, including how the plan is responsive to changes in the resident's condition;
- (4) staffing credentials, job descriptions, and staff duties and availability, including any training specific to dementia;
- (5) physical environment as well as design and security features that specifically address the needs of residents with Alzheimer's disease or other dementias;
- (6) frequency and type of programs and activities for residents of the special care unit;
- (7) involvement of families in resident care and availability of family support programs;
- (8) fee schedules for additional services to the residents of the special care unit; and
- (9) a statement that residents will be given a written notice 30 days prior to changes in the fee schedule.

Subd. 3. **Duty to update.** Substantial changes to disclosures must be reported to the parties listed in subdivision 1 at the time the change is made.

Subd. 4. **Remedy.** The attorney general may seek the remedies set forth in section 8.31 for repeated and intentional violations of this section. However, no private right of action may be maintained as provided under section 8.31, subdivision 3a.

**History:** *1Sp2001 c 9 art 1 s 57; 2002 c 379 art 1 s 113; 2007 c 147 art 7 s 75*



**Ryan, Robin**

---

**From:** Moran, Christian  
**Sent:** Wednesday, October 07, 2009 11:24 AM  
**To:** Ryan, Robin  
**Subject:** RE: Alzheimer's sub

Yes, please draft the sub to apply to the same facilities in the bill. Thanks.

---

**From:** Ryan, Robin  
**Sent:** Tuesday, October 06, 2009 5:11 PM  
**To:** Moran, Christian  
**Subject:** Alzheimer's sub

Christian,  
Who should the sub. apply to -- the same facilities as in the bill (nursing home, CBRF, and certain adult family homes)?

Thanks,  
Robin

**Ryan, Robin**

---

**From:** Ryan, Robin  
**Sent:** Wednesday, October 07, 2009 8:12 PM  
**To:** Moran, Christian  
**Subject:** Alzheimer's disclosure  
**Attachments:** Minnesota AG for Krusick sub.doc

Christian,

The Minnesota law leaves it to the attorney general to enforce the disclosure requirement. I am attaching the provision relating to attorney general powers to which the Minnesota law refers.

Do you want the AG to have exclusive enforcement power in your amendment? I am planning on putting the disclosure requirement in ch. 50, but it seems strange to do so if DHS has no power to enforce the requirement. Should the requirement be tied in with licensing at all?

Perhaps we can talk through on Thursday how you want enforcement to work. If all goes as planned, I will be available after 11 on Thursday.

Robin

*Christian 10/8  
Don't need AG enforcement - will look  
more at enforcement issues.*



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRBs0148  
RLR:.....  
Lbjk

Wanted Mon 10/12/09 AM

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**  
**ASSEMBLY SUBSTITUTE AMENDMENT,**  
**TO 2009 ASSEMBLY BILL 259**

RMP

DN

SA  
x-ref

1 AN ACT <sup>gen.</sup>...; relating to: requirements for residential facilities that provide or  
2 promote themselves as providing specialized care for persons who have  
3 Alzheimer's disease or related dementia.

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

4 SECTION 1. 50.16 of the statutes is created to read:  
5 50.16 Information regarding specialized care for persons with

6 Alzheimer's disease. (1) Notwithstanding s. 50.01 (1m), in this section "facility"  
7 means an adult family home under s. 50.01 (1) (b), a community-based residential  
8 facility, or a nursing home.

9 (2) A facility that provides specialized programing or a specialized unit for  
10 persons who have Alzheimer's disease or related dementia or that advertises,  
11 markets, or otherwise promotes itself as providing specialized programming or a

m

1 specialized unit for persons who have Alzheimer's disease or related dementia shall  
2 produce a written document that includes a description or identification of all of the  
3 following:

4 (a) The facility's approach to the care and treatment of persons who have  
5 Alzheimer's disease or related dementia.

> \*\*\*\*NOTE: Are ~~may~~ changes to the statement of philosophy ok?

6 (b) The facility's criteria for determining who may participate in its specialized  
7 programming for persons who have Alzheimer's disease or related dementia and its  
8 criteria for determining who may reside in its specialized unit for persons who have  
9 Alzheimer's disease or related dementia.

> \*\*\*\*NOTE: The Minnesota law only refers to criteria for residing in a specialized Alzheimer's unit, not criteria for participating in specialized Alzheimer's programming. Should the amendment refer to both, as in par. (b)?

10 (c) The facility's process for assessing a person who has Alzheimer's disease or  
11 related dementia and the facility's process for establishing a service plan or  
12 agreement for a person who has Alzheimer's disease or related dementia, including  
13 a description of how the facility accounts for future changes in the person's condition  
14 in establishing a service plan or agreement.

\*\*\*\*NOTE: Should par. (c) refer to a "plan of care" rather than a "service plan or agreement"?

15 (d) The credentials, including training specific to Alzheimer's disease or related  
16 dementia, job descriptions, duties and availability of facility staff who work with  
17 persons who have Alzheimer's disease or related dementia.

> \*\*\*\*NOTE: I assumed that par. (d) should apply only to staff who work with residents who have Alzheimer's disease or dementia. Is this ok?

18 (e) The facility's physical environment and design and security features that  
19 specifically address the needs of residents who have Alzheimer's disease or related  
20 dementia.

and the job descriptions, duties, and availability of those staff

1 (f) The type and frequency of programs and activities that the facility provides  
2 to persons who participate in the facility's specialized programming for person's who  
3 have Alzheimer's disease or related dementia and to persons who reside in the  
4 specialized unit for person who have Alzheimer's disease or related dementia.

5 (g) Any fees specific to the specialized program or specialized unit for persons  
6 who have Alzheimer's disease or a related dementia.

7 (h) A statement that the facility will not increase any fee identified under par.  
8 (g) without providing residents written notice of the fee increase 30 days before the  
9 fee increase is effective.

\*\*\*\*NOTE: Do you want to actually require a facility to give 30 days advance notice  
of a fee increase? Paragraph (h) just requires the facility to say they will provide 30 days  
advance notice.

10 (3) A facility that is required to produce a document under sub. (2) shall provide  
11 a copy of the document to all of the following:

- 12 (a) The secretary of health services, upon request.
- 13 (b) The long-term care ombudsman under s. 16.009.

\*\*\*\*NOTE: When must a facility provide the document to the ombudsman?

14 (c) Each person seeking placement at the facility, before the person enters into  
15 a placement agreement with the facility.

16 (4) A facility that is required to produce a document under sub. (2) shall update  
17 the document whenever there are substantial changes to the information included  
18 in the document.

19 (5) Notwithstanding s. 50.04 (4), a violation of this section by a nursing home  
20 is not a class "A," "B," or "C" violation under s. 50.04.



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

LRBs0148/P1dn

RLR:.....

Lbjk

Date

Representative Krusick:

Substitute X2

This amendment creates a disclosure requirement for nursing homes, community-based residential facilities, and licensed adult family homes in subch. I of ch. 50. The amendment does not make the disclosure requirement a condition for licensing.

substitute amendment

Current law s. 50.04 (4) and (5) provide that any violation of subch. I of ch. 50 by a nursing home may be a Class A, B, or C violation. This bill specifies that violation of the new disclosure requirement by a nursing home is not a Class A, B, or C violation. The penalty provisions for community-based residential facilities under s. 50.03 (5g) refer to violations of licensing provisions under s. 50.03 (4) or (4m), and therefore will not apply to the created disclosure requirement. Similarly, the penalty provision for licensed adult family homes under s. 50.033 refer only to violations of s. 50.033.

The injunction provisions under s. 50.03 (7) could apply to violations of the new disclosure requirement by a nursing home or community-based residential facility (but not an adult family home), but only if such a violation affects the health, safety, or welfare of residents.

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

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

LRBs0148/P1dn  
RLR:bjk:jf

October 12, 2009

Representative Krusick:

This substitute amendment creates a disclosure requirement for nursing homes, community-based residential facilities, and licensed adult family homes in subch. I of ch. 50. The substitute amendment does not make the disclosure requirement a condition for licensing.

Current law s. 50.04 (4) and (5) provide that any violation of subch. I of ch. 50 by a nursing home may be a class "A," "B," or "C" violation. This substitute amendment specifies that violation of the new disclosure requirement by a nursing home is not a class "A," "B," or "C" violation. The penalty provisions for community-based residential facilities under s. 50.03 (5g) refer to violations of licensing provisions under s. 50.03 (4) or (4m), and therefore will not apply to the created disclosure requirement. Similarly, the penalty provision for licensed adult family homes under s. 50.033 refer only to violations of s. 50.033.

The injunction provisions under s. 50.03 (7) could apply to violations of the new disclosure requirement by a nursing home or community-based residential facility (but not an adult family home), but only if such a violation affects the health, safety, or welfare of residents.

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



Chutkan 50148/p1

10/16/09

Looking at penalty issue - will  
get back to me

Notes in draft

2-5 OK

2-9 yes

2-14 "plan of care"

2-17 yes

3-9 yes - separate requirement for  
30 day notice

Call from Chutkan 10/20

Penalty - forfeiture up to \$5,000  
Class "B" for nursing home

allow private cause of action

ombudsman - give ombudsman document  
upon completion

Call to Chutkan 10/20

Violation doesn't fit definition of Class B  
how about making it a Class C but  
allow \$5000 forfeiture - OK

Should viol still be separated from  
licensing requirements - yes

I missed language in 10/20 e-mail - still  
want it? yes



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRBs0148/PT  
RLR:bjk:jf

①  
Lstays

By Thurs 10/22/09

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

RMK

ASSEMBLY SUBSTITUTE AMENDMENT,  
TO 2009 ASSEMBLY BILL 259

SA  
x-ref

Inserts

1 AN ACT to create 50.16 of the statutes; relating to: requirements for residential  
2 facilities that provide or promote themselves as providing specialized care for  
3 persons who have Alzheimer's disease or related dementia.

INS Analysis

and providing penalties

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

INS 1-3

50.063

SECTION 1. 50.16 of the statutes is created to read:

4  
Repeal

50.063

50.16 Information regarding specialized care for persons with

6 Alzheimer's disease. (1) Notwithstanding s. 50.01 (1m), in this section "facility"  
7 means an adult family home under s. 50.01 (1) (b), a community-based residential  
8 facility, or a nursing home.

9 (2) A facility that provides specialized programming or a specialized unit for  
10 persons who have Alzheimer's disease or related dementia or that advertises,  
11 markets, or otherwise promotes itself as providing specialized programming or a

1 specialized unit for persons who have Alzheimer's disease or related dementia shall  
2 produce a written document that includes a description or identification of all of the  
3 following:

4 (a) The facility's approach to the care and treatment of persons who have  
5 Alzheimer's disease or related dementia.

> \*\*\*\*NOTE: Are my changes to the statement of philosophy ok?

6 (b) The facility's criteria for determining who may participate in its specialized  
7 programming for persons who have Alzheimer's disease or related dementia and its  
8 criteria for determining who may reside in its specialized unit for persons who have  
9 Alzheimer's disease or related dementia.

> \*\*\*\*NOTE: The Minnesota law only refers to criteria for residing in a specialized  
Alzheimer's unit, not criteria for participating in specialized Alzheimer's programming.  
Should the amendment refer to both, as in par. (b)?

10 (c) The facility's process for assessing a person who has Alzheimer's disease or  
11 related dementia and the facility's process for establishing a service plan or <sup>of care</sup>  
12 agreement for a person who has Alzheimer's disease or related dementia, including  
13 a description of how the facility accounts for future changes in the person's condition  
14 in establishing a service plan or agreement <sup>of care</sup>

\*\*\*\*NOTE: Should par. (c) refer to a "plan of care" rather than a "service plan or agreement"?

15 (d) The credentials, including training specific to Alzheimer's disease or related  
16 dementia, for facility staff who work with persons who have Alzheimer's disease or  
17 related dementia and the job descriptions, duties, and availability of those staff.

> \*\*\*\*NOTE: I assumed that par. (d) should apply only to staff who work with residents  
who have Alzheimer's disease or dementia. Is this ok?

18 (e) The facility's physical environment and design and security features that  
19 specifically address the needs of residents who have Alzheimer's disease or related  
20 dementia.

persons

*How the programs and activities address the special needs of the persons and how the facility incorporates the persons' life stories into the programs and activities*

1

(f) The type and frequency of programs and activities that the facility provides

2

to persons who participate in the facility's specialized programming for persons who

3

have Alzheimer's disease or related dementia and to persons who reside in the

4

specialized unit for persons who have Alzheimer's disease or related dementia

5

(g) Any fees specific to the specialized program or specialized unit for persons

6

who have Alzheimer's disease or a related dementia.

7

(h) A statement that the facility will not increase any fee identified under par.

8

(g) without providing residents written notice of the fee increase 30 days before the

9

fee increase is effective.

\*\*\*NOTE: Do you want to actually require a facility to give 30 days' advance notice of a fee increase? Paragraph (h) just requires the facility to say they will provide 30 days' advance notice.

10

(3) A facility that is required to produce a document under sub. (2) shall provide

11

a copy of the document to all of the following:

12

(a) The secretary of health services, upon request.

13

(b) The long-term care ombudsman under s. 16.009.

*When the facility completes or updates the document*

\*\*\*NOTE: When must a facility provide the document to the ombudsman?

14

(c) Each person seeking placement at the facility, before the person enters into

15

a placement agreement with the facility.

16

(4) A facility that is required to produce a document under sub. (2) shall update

17

the document whenever there are substantial changes to the information included

18

in the document.

19

(5) Notwithstanding s. 50.04 (4), a violation of this section by a nursing home

20

is not a class "A," "B," or "C" violation under s. 50.04.

1 (6) Notwithstanding s. 50.10, a person residing in a nursing home does not  
2 have an independent cause of action under s. 50.10 to correct a violation of this  
3 section.

JNS  
4-3 →

4 **SECTION 2. Effective date.**

5 (1) This act takes effect on the first day of the 7th month beginning after  
6 publication.

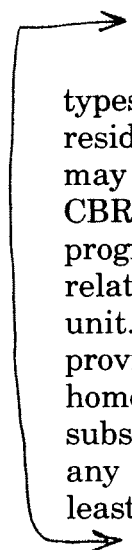
7 (END)

2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRBs0148/lins  
RLR:.....

Under current law, the Department of Health Services (DHS) licenses various types of residential care facilities, including nursing homes, community-based residential facilities (CBRFs), and adult family homes at which nursing home care may be provided (AFHs). This substitute amendment requires a nursing home, CBRF, or AFH that provides, or promotes itself as providing, specialized programming or a specialized unit for persons who have Alzheimer's disease or related dementia to produce a document describing the specialized programming or unit. The substitute amendment requires that the nursing home, CBRF, or AFH provide a copy of the document to every person seeking placement at the nursing home, CBRF, or AFH, as well as to DHS and the long-term care ombudsman. The substitute amendment further requires that a nursing home, CBRF, or AFH identify any fees specific to the specialized programming or unit and provide residents at least 30 days notice before increasing these fees.

add  
anal: line  
component



1

2

**Ins 1-3:**

3

**SECTION ~~17~~. 50.033 (2r)** of the statutes is created to read:

4

**50.033 (2r) SPECIALIZED SERVICES FOR ALZHEIMER'S DISEASE OR DEMENTIA.** An

5

adult family home that <sup>e</sup>that provides specialized programming or a specialized unit

6

for persons who have Alzheimer's disease or related dementia or that advertises,

7

markets, or otherwise promotes itself as providing specialized programming or a

8

specialized unit for persons who have Alzheimer's disease or related dementia shall

9

comply with s. 50.063.

10

History: 1993 a. 327; 1995 a. 27; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2007 a. 20; 2009 a. 28.

**SECTION ~~17~~. 50.033 (6)** of the statutes is renumbered 50.033 (6) (a) and amended

11

to read:

12

**50.033 (6) (a)** Any Except as provided under par. (b), any person who violates

13

this section or rules promulgated under s. 50.02 (2) (am) 2. may be fined not more

14

than \$500 or imprisoned for not more than one year in the county jail or both.

15

**SECTION ~~17~~. 50.033 (6) (b)** of the statutes is created to read:

1 50.033 (6) (b) Any person who violates sub. (2r) is subject to a forfeiture not to  
2 exceed \$5,000.

3 SECTION ~~27~~. 50.035 (10g) of the statutes is created to read:

4 50.035 (10g) SPECIALIZED SERVICES FOR ALZHEIMER'S DISEASE OR DEMENTIA. A  
5 community-based residential facility that provides specialized programming or a  
6 specialized unit for persons who have Alzheimer's disease or related dementia or  
7 that advertises, markets, or otherwise promotes itself as providing specialized  
8 programming or a specialized unit for persons who have Alzheimer's disease or  
9 related dementia shall comply with s. 50.063. <sup>g</sup>Δ

10 SECTION ~~27~~ 50.035 (11) (a) of the statutes is amended to read:

11 50.035 (11) (a) Whoever violates sub. (4m) or (4n) or rules promulgated under  
12 sub. (4m) or (4n) may be required to forfeit not more than \$500 for each violation.  
13 A community-based residential facility that violates sub. (10g) may be required to  
14 forfeit not more than \$5,000 for each violation.

15 SECTION ~~27~~. 50.04 (2x) of the statutes is created to read:

16 50.04 (2x) (a) SPECIALIZED SERVICES FOR ALZHEIMER'S DISEASE OR DEMENTIA. <sup>move</sup> A  
17 nursing home that ~~that~~ <sup>e</sup> provides specialized programming or a specialized unit for  
18 persons who have Alzheimer's disease or related dementia or that advertises,  
19 markets, or otherwise promotes itself as providing specialized programming or a  
20 specialized unit for persons who have Alzheimer's disease or related dementia shall  
21 comply with s. 50.063.

22 (b) A violation of par. (a) is a class "C" violation under sub. (4) (b) 3.  
23 Notwithstanding sub. (5) (a) 3., the maximum amount of a the forfeiture that may  
24 be imposed on a nursing home for a violation of par. (a) is \$5,000.

1           **Ins 4-3:**

2           **(5)** A facility that is required to produce a document under sub. (2) shall provide  
3 residents at least 30 days notice before increasing any fee that the facility is required  
4 to identify under sub. (2) (g).

5           **(6)** Notwithstanding <sup>SSO</sup>s. 50.03 (5) and (5g) and 50.033 (4), failure to comply with  
6 sub. (2), (3), (4), or (5) is not grounds to suspend or revoke a license issued under s.  
7 50.03 or 50.033.

8           **SECTION ~~27~~.** 50.10 (1g) of the statutes is created to read:

9           **50.10 (1g)** A resident of an adult family home under s. 50.01 (1) (b),  
10 community-based residential facility, or nursing home has an independent cause of  
11 action to correct a violation of <sup>SO</sup> 50.063 committed by the adult family home,  
12 community-based residential facility, or nursing home.



## Ryan, Robin

---

**From:** Rose, Laura  
**Sent:** Friday, January 22, 2010 3:45 PM  
**To:** Ryan, Robin  
**Cc:** Moran, Christian  
**Subject:** AB 259 substitute amendment

Hi, Robin,

Rep. Krusick would like a /2 to LRB s0148/1, a Substitute Amendment to AB 259, with the following changes:

1. Make a failure to comply with s.50.063 a "Class C" violation and remove the special \$5000 penalty.
2. Remove the independent cause of action on page 6, lines 1-4.
3. Add to page 5, after line 7:

"(i) A notice that the facility's failure to strictly adhere to the provisions in the statement will not subject the facility to a violation under this chapter, provided that the facility meets the requirements it is subject to under this chapter."

I have some questions about the wording of the above, so I will call you about that.

Thanks!

Laura

*Laura D. Rose, Deputy Director*  
Wisconsin Legislative Council  
One East Main Street, Suite 401  
PO Box 2536  
Madison, WI 53701-2536  
tel: 608.266.9791  
fax: 608.266.3830  
[laura.rose@legis.wisconsin.gov](mailto:laura.rose@legis.wisconsin.gov)

*Laura:*

- ① They want warning then \$500 forfeiture  
to apply for NH, CBRF & AFH*
- ③ Point of #3 is that DHS can't  
enforce items promised in document*

**Ryan, Robin**

**From:** Rose, Laura  
**Sent:** Tuesday, January 26, 2010 9:17 AM  
**To:** Ryan, Robin  
**Cc:** Moran, Christian  
**Subject:** FW: Suggested revisions to AB 259 substitute amendment

Good morning Robin!

I'm forwarding an email from Tom Ramsey to you with some suggested language. Please disregard items 1 and 2. I think item #3 is an attempt to re-phrase the idea of not citing a facility if they don't do what they say they are going to do in their disclosure statement. What do you think?

I think item #4 is okay.

Thanks!

Laura

*Call from Christian  
 10 am 1/26 - go for future  
 with \$100 for new*

*Laura D. Rose, Deputy Director  
 Wisconsin Legislative Council  
 One East Main Street, Suite 401  
 PO Box 2536  
 Madison, WI 53701-2536  
 tel: 608.266.9791  
 fax: 608.266.3830  
 laura.rose@legis.wisconsin.gov*

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**From:** Moran, Christian  
**Sent:** Tuesday, January 26, 2010 8:34 AM  
**To:** Rose, Laura  
**Subject:** FW: Suggested revisions to AB 259 substitute amendment

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**From:** Tom Ramsey [mailto:tramsey@wahsa.org]  
**Sent:** Monday, January 25, 2010 5:00 PM  
**To:** Moran, Christian  
**Subject:** RE: Suggested revisions to AB 259 substitute amendment

Hey Christian,

Thanks for getting back to us with these proposed changes. I ran them by the WAHSA Board Thursday and this is how they responded:

- 1) They agreed to Suggestion #1, making the failure to comply with s. 50.063 of the bill the equivalent of a Class "C" violation under s. 50.04 (4)(b)3. However, they want to ensure the Class "C" would incorporate both s. 50.04 (4)(a)1g, 1m and 1r (a correction order, rather than a Class "C" notice of violation, would be issued for failure to

01/26/2010

comply with s. 50.063 unless the order is not corrected or is a repeat Class "C" violation of s. 50.063) and s. 50.04 (5) (a)3 (a forfeiture not to exceed \$500 would be assessed a nursing home that fails to comply with s. 50.063 only if the facility either fails to correct the correction order for a violation of s. 50.063 or the violation is a repeat of that violation). Since there is no equivalent to a Class "C" violation for CBRFs or adult family homes, we would suggest that failure to comply with s. 50.063 by a CBRF or adult family home would result in a forfeiture not to exceed \$100 and that forfeiture only would be assessed if the CBRF/adult family either failed to correct the violation or the violation of s. 50.063 was a repeat violation;

- 2) They accept Suggestion #2.
- 3) They don't believe Suggestion #3 provides the immunity from citation(s) for failure to comply with s. 50.063 that we discussed. Rather, on Page 5, line 23 of LRBs0148/1, they suggest creating a sub. (7) to read: "Notwithstanding s. 50.04 (4), failure to comply with sub. (2), (3), (4), or (5) is not grounds for the issuance of a notice of violation under s. 50.04."
- 4) They recommended a Suggestion #4: On Page 5, line 23, delete the period and add "or impose sanctions under s. 50.03 (5g)(b)7." This would preclude the DHS from denying admissions to a CBRF until their failure to comply with s. 50.063 is corrected.

Obviously, before we can agree to anything, we'd have to see the actual language. But our Board stated that even though it still doesn't see the need for AB 259 (even with these changes) and would prefer the bill not be adopted, it would not oppose the bill if the changes to the substitute amendment recommended above were incorporated. That might not strike you as much but the only thing that changed their position from opposition was Peggy's willingness to address their concerns with the bill itself; that still doesn't change their belief the bill is unnecessary.

Needless to say after our discussion last week, their strong opposition to AB 389, even with the proposed simple amendment, remains.

Thanks again for letting us share our concerns with both bills.

TR

**From:** Moran, Christian [mailto:Christian.Moran@legis.wisconsin.gov]  
**Sent:** Friday, January 22, 2010 4:16 PM  
**To:** Tom Ramsey; Forbes McIntosh; Jim McGinn  
**Subject:** Suggested revisions to AB 259 substitute amendment

Tom, Forbes and Jim:

If the following revisions are made to the proposed substitute amendment (LRB-s0148/1) to the Alzheimer's Special Units bill, can your respective organizations support the bill?

Christian

- 1. Make a failure to comply with s.50.063 a "Class C" violation and remove the special \$5000 penalty.
- 2. Remove the independent cause of action on page 6, lines 1-4.
- 3. Add to page 5, after line 7:

"(i) A notice that the facility's failure to strictly adhere to the provisions in the statement will not subject the facility to a violation under this chapter, provided that the facility meets the requirements it is subject to under this chapter."

1/26 PM  
 01/26/2010  
 (1) \$100 forfeiture for CBRF/AFH - require opportunity to correct or repeat violation  
 (2) No bar on CBRF admissions  
 (3) clarification that facility can't be penalized for failure to comply with document



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRBs0148/2  
RLR:bjk:jf  
Lstays

TODAY

ASSEMBLY SUBSTITUTE AMENDMENT ,  
TO 2009 ASSEMBLY BILL 259

SA Inserts

- regen .

1 AN ACT *to renumber and amend* 50.033 (6); *to amend* 50.035 (11) (a); and *to*  
2 *create* 50.033 (2r), 50.033 (6) (b), 50.035 (10g), 50.04 (2x), 50.063 and 50.10 (1g)  
3 of the statutes; **relating to:** requirements for residential facilities that provide  
4 or promote themselves as providing specialized care for persons who have  
5 Alzheimer's disease or related dementia and providing penalties.

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

Under current law, the Department of Health Services (DHS) licenses various types of residential care facilities, including nursing homes, community-based residential facilities (CBRFs), and adult family homes at which nursing home care may be provided (AFHs). This substitute amendment requires a nursing home, CBRF, or AFH that provides, or promotes itself as providing, specialized programming or a specialized unit for persons who have Alzheimer's disease or related dementia to produce a document describing the specialized programming or unit. The substitute amendment requires that the nursing home, CBRF, or AFH provide a copy of the document to every person seeking placement at the nursing home, CBRF, or AFH, as well as to DHS and the long-term care ombudsman. The substitute amendment further requires that a nursing home, CBRF, or AFH identify

any fees specific to the specialized programming or unit and provide residents at least 30 days' notice before increasing these fees.

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

1           **SECTION 1.** 50.033 (2r) of the statutes is created to read:

2           **50.033 (2r)** SPECIALIZED SERVICES FOR ALZHEIMER'S DISEASE OR DEMENTIA. An  
3 adult family home that provides specialized programming or a specialized unit for  
4 persons who have Alzheimer's disease or related dementia or that advertises,  
5 markets, or otherwise promotes itself as providing specialized programming or a  
6 specialized unit for persons who have Alzheimer's disease or related dementia shall  
7 comply with s. 50.063.

8           **SECTION 2.** 50.033 (6) of the statutes is renumbered 50.033 (6) (a) and amended  
9 to read:

10           **50.033 (6) (a)** Any Except as provided under par. (b), any person who violates  
11 this section or rules promulgated under s. 50.02 (2) (am) 2. may be fined not more  
12 than \$500 or imprisoned for not more than one year in the county jail or both.

13           **SECTION 3.** 50.033 (6) (b) of the statutes is created to read:

INS  
2-14 14           **50.033 (6) (b)** Any person who violates sub. (2r) is subject to a forfeiture not to  
15 exceed \$5,000.

16           **SECTION 4.** 50.035 (10g) of the statutes is created to read:

17           **50.035 (10g)** SPECIALIZED SERVICES FOR ALZHEIMER'S DISEASE OR DEMENTIA. A  
18 community-based residential facility that provides specialized programming or a  
19 specialized unit for persons who have Alzheimer's disease or related dementia or  
20 that advertises, markets, or otherwise promotes itself as providing specialized

1 programming or a specialized unit for persons who have Alzheimer's disease or  
2 related dementia shall comply with s. 50.063.

3 **SECTION 5.** 50.035 (11) (a) of the statutes is amended to read:

4 50.035 (11) (a) Whoever violates sub. (4m) or (4n) or rules promulgated under  
5 sub. (4m) or (4n) may be required to forfeit not more than \$500 for each violation.

6 A community-based residential facility that violates sub. (10g) may be required to  
7 forfeit not more than \$5,000. INS 3-7

8 **SECTION 6.** 50.04 (2x) of the statutes is created to read:

9 50.04 (2x) SPECIALIZED SERVICES FOR ALZHEIMER'S DISEASE OR DEMENTIA. (a) A  
10 nursing home that provides specialized programming or a specialized unit for  
11 persons who have Alzheimer's disease or related dementia or that advertises,  
12 markets, or otherwise promotes itself as providing specialized programming or a  
13 specialized unit for persons who have Alzheimer's disease or related dementia shall  
14 comply with s. 50.063.

15 (b) A violation of par. (a) is a class "C" violation under sub. (4) (b) 3.

16 Notwithstanding sub. (5) (a) 3., the maximum amount of a the forfeiture that may  
17 be imposed on a nursing home for a violation of par. (a) is \$5,000.

18 **SECTION 7.** 50.063 of the statutes is created to read:

19 **50.063 Information regarding specialized care for persons with**  
20 **Alzheimer's disease.** (1) Notwithstanding s. 50.01 (1m), in this section "facility"  
21 means an adult family home under s. 50.01 (1) (b), a community-based residential  
22 facility, or a nursing home.

23 (2) A facility that provides specialized programming or a specialized unit for  
24 persons who have Alzheimer's disease or related dementia or that advertises,  
25 markets, or otherwise promotes itself as providing specialized programming or a

1 specialized unit for persons who have Alzheimer's disease or related dementia shall  
2 produce a written document that includes a description or identification of all of the  
3 following:

4 (a) The facility's approach to the care and treatment of persons who have  
5 Alzheimer's disease or related dementia.

6 (b) The facility's criteria for determining who may participate in its specialized  
7 programming for persons who have Alzheimer's disease or related dementia and its  
8 criteria for determining who may reside in its specialized unit for persons who have  
9 Alzheimer's disease or related dementia.

10 (c) The facility's process for assessing a person who has Alzheimer's disease or  
11 related dementia and the facility's process for establishing a plan of care for a person  
12 who has Alzheimer's disease or related dementia, including a description of how the  
13 facility accounts for future changes in the person's condition in establishing a plan  
14 of care.

15 (d) The credentials, including training specific to Alzheimer's disease or related  
16 dementia, for facility staff who work with persons who have Alzheimer's disease or  
17 related dementia and the job descriptions, duties, and availability of those staff.

18 (e) The facility's physical environment and design and security features that  
19 specifically address the needs of persons who have Alzheimer's disease or related  
20 dementia.

21 (f) The type and frequency of programs and activities that the facility provides  
22 to persons who participate in the facility's specialized programming for persons who  
23 have Alzheimer's disease or related dementia and to persons who reside in the  
24 specialized unit for persons who have Alzheimer's disease or related dementia, how

1 the programs and activities address the special needs of the persons, and how the  
2 facility incorporates the persons' life stories into the programs and activities.

3 (g) Any fees specific to the specialized program or specialized unit for persons  
4 who have Alzheimer's disease or a related dementia.

5 (h) A statement that the facility will not increase any fee identified under par.  
6 (g) without providing residents written notice of the fee increase 30 days before the  
7 fee increase is effective.

8 (3) A facility that is required to produce a document under sub. (2) shall provide  
9 a copy of the document to all of the following:

10 (a) The secretary of health services, upon request.

11 (b) The long-term care ombudsman under s. 16.009, when the facility  
12 completes or updates the document.

13 (c) Each person seeking placement at the facility, before the person enters into  
14 a placement agreement with the facility.

15 (4) A facility that is required to produce a document under sub. (2) shall update  
16 the document whenever there are substantial changes to the information included  
17 in the document.

18 (5) A facility that is required to produce a document under sub. (2) shall provide  
19 residents at least 30 days' notice before increasing any fee that the facility is required  
20 to identify under sub. (2) (g).

21 (6) Notwithstanding ss. 50.03 (5) and (5g) and 50.033 (4), failure to comply with  
22 sub. (2), (3), (4), or (5) ~~is not grounds~~ to suspend or revoke a license issued under s.  
23 50.03 or 50.033

24 **SECTION 8.** 50.10 (1g) of the statutes is created to read:

INS  
5-23  
B

INS 5-23A



1  
2  
3  
4

50.10 (1g) A resident of an adult family home under s. 50.01 (1) (b), community-based residential facility, or nursing home has an independent cause of action to correct a violation of s. 50.063 committed by the adult family home, community-based residential facility, or nursing home.

5  
6  
7  
8

**SECTION 9. Effective date.**

(1) This act takes effect on the first day of the 7th month beginning after publication.

(END)

**2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBs0148/2ins  
RLR:.....

1           **Ins 2-14:**

2           <sup>No</sup>~~Q~~ Any person who violates sub. (2r) and fails to correct the violation after the  
3 department notifies the person of the violation, or any person who commits a second  
4 violation of sub. (2r), is subject to a forfeiture not to exceed \$100.

5

6

7           **Ins 3-7:**

8           <sup>No</sup>~~Q~~ A community-based residential facility that violates sub. (10g) and fails to  
9 correct the violation after the department notifies the community-based residential  
10 facility of the violation, or a community-based residential facility that commits a  
11 second violation of sub. (10g), may be required to forfeit not more than \$100.

12

13           **Ins 5-23A:**

14           <sup>No</sup>~~Q~~ or to impose a sanction under s. 50.03 (5g) (b) 7.

15

16           **Ins 5-23B:**

17           (7) A facility's failure to comply with a provision of the document the facility  
18 produces under sub. (2) is not in itself a violation of this chapter.



Corrected copy

LRBs0148/2  
RLR:bjk:md

Added

**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 2009 ASSEMBLY BILL 259**

changed

Per Kay  
ACC office  
02-02-2010

February 1, 2010 - Offered by Representative KRUSICK.

1 **AN ACT to renumber and amend 50.033 (6); to amend 50.035 (11) (a); and to**  
2 **create 50.033 (2r), 50.033 (6) (b), 50.035 (10g), 50.04 (2x) and 50.063 of the**  
3 **statutes; relating to: requirements for residential facilities that provide or**  
4 **promote themselves as providing specialized care for persons who have**  
5 **Alzheimer's disease or related dementia and providing penalties.**

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

Under current law, the Department of Health Services (DHS) licenses various types of residential care facilities, including nursing homes, community-based residential facilities (CBRFs), and adult family homes at which nursing home care may be provided (AFHs). This substitute amendment requires a nursing home, CBRF, or AFH that provides, or promotes itself as providing, specialized programming or a specialized unit for persons who have Alzheimer's disease or related dementia to produce a document describing the specialized programming or unit. The substitute amendment requires that the nursing home, CBRF, or AFH provide a copy of the document to every person seeking placement at the nursing home, CBRF, or AFH, as well as to DHS and the long-term care ombudsman. The substitute amendment further requires that a nursing home, CBRF, or AFH identify

**AMENDMENTS INFORMATION**

Date of Intro	Amendment Number	Offered by	LRB No.	LRB Intro'ed
28-JAN-10	ASA1-AB259	committee on Aging and Long-Term Care	s0148	

