

2009 DRAFTING REQUEST

Bill

Received: **02/09/2010**

Received By: **rryan**

Wanted: **As time permits**

Companion to LRB:

For: **Jennifer Shilling (608) 266-5780**

By/Representing: **Tony Palese**

May Contact:

Drafter: **rryan**

Subject: **Health - facility licensure**

Addl. Drafters:

Extra Copies: **TJD**

Submit via email: **YES**

Requester's email: **Rep.Shilling@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Nursing home operated by a multi-county commission

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 02/18/2010	kfollett 02/18/2010	jfrantze 02/18/2010	_____	cduerst 02/18/2010		S&L
/1	rryan 04/08/2010	kfollett 04/08/2010	rschluet 04/08/2010	_____	cduerst 04/08/2010	cduerst 04/08/2010	

FE Sent For: **"1" @ intro. 4/9/10**

<END>

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By/Representing: **Tony Palese**

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

Drafter: **rryan**

May Contact:

Adl. Drafters:

Subject: **Health - facility licensure**

Extra Copies: **TJD**

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/P1	rryan 02/18/2010	kfollett 02/18/2010	jfrantze 02/18/2010		cduerst 02/18/2010		

FE Sent For:

1157
418
4810
<END>
4/8/10

2009 DRAFTING REQUEST

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For: Jennifer Shilling (608) 266-5780

By/Representing: Tony Palese

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.Shilling@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Nursing home district operated by a multi-county commission

Instructions:

See attached

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<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rryan	1/15/10 2/1/10	2/1/10	2/1/10			

FE Sent For:

<END>

Ryan, Robin

From: Palese, Anthony
Sent: Monday, February 08, 2010 4:09 PM
To: Ryan, Robin
Subject: Multi-County Nursing Home Collaboration

Attachments: Multi-County Nursing Home Collaboration.pdf; Collaboration outline - 02-05-10.doc

Hi Robin,

I have attached a brief description of the issue facing La Crosse County and others in the state as well as some preliminary draft guidelines that were prepared by the WI Counties Association. Their lobbyist who we will be working with on this bill is Sarah Diedrick. If you have any questions about this, please feel free to contact me or, if you have any questions for Sarah directly, you can contact her at: diedrick@wicounties.org or by phone at (608) 663-7188.

Thank you,

Tony Palese
Legislative Aide
Office of Rep. Jennifer Shilling

State Capitol, Room 320 East
PO Box 8953, Madison, WI 53708
(608) 266-5780 voice
(888) 534-0095 toll free
(608) 282-3695 fax



Multi-County Nursing Home Coll...
Collaboration outline - 02-05-...

phone msg to Sarah Diedrick 2/15/10

Wisconsin Association of County Homes



COUNTY HOMES: MULTI-COUNTY COLLABORATION

Many county nursing homes care for specialized populations, including individuals with behavioral needs and brain injuries. These county homes serve as a valuable resource for counties statewide - both counties with and without their own nursing facilities.

Nursing home funding received from the state through the nursing home formula falls short of covering the cost of care for these specialized populations. As a result, counties subsidize their nursing home operations with significant property tax levy contributions. This fall, five counties placed referenda on the ballot asking taxpayers for additional revenue to fund their nursing homes - three of the referenda were successful; the other two nursing homes will soon be sold to the private sector.

Counties without county-operated nursing homes often turn to other counties with homes for assistance in appropriately placing a Medicaid-eligible resident. However, Medicaid regulations require the receiving county to accept the Medicaid rate as "payment in full," forcing the receiving county to support the resident's care with their own county's tax levy dollars. The problem with an overly strict interpretation of these regulations is that the county with a nursing home is forced to subsidize the care of non-residents, thus creating a fundamental disincentive to accept residents of other counties. If a county closes the doors of its nursing home to nonresidents, it limits other counties' placement alternatives, thus forcing our neediest citizens into more costly placement alternatives, including Winnebago and Mendota. Clearly, such a system is not workable in an age where efficiency and collaboration should be encouraged.

State statute allows counties to act jointly in such instances where a county is authorized to act alone. Several counties have created a legal entity for the licensure and operation of their county homes that allows all counties with residents in the facility to share in the costs of operating the nursing home, without running afoul of Medicaid regulations.

In order to ensure our multi-county collaboratives are deemed separate legal governmental entities, newly-created state statutes, akin to current state statutes regarding long-term care districts, are necessary to recognize county nursing home collaborations.

Multi-County Collaboration

Page 2

CURRENT STATUS: Counties involved with the nursing home collaboration effort have been working with the state for the past three years on this initiative. The Wisconsin Counties Association is working on a bill draft for introduction during this current legislative session.

REQUESTED ACTION: County officials should talk to their legislators regarding the need for this legislation. The bill will need to be fast-tracked to ensure adoption by the end of the session.

TALKING POINTS:

- Allows county homes serving specialized populations to continue to serve as a resource for all counties statewide.
- Assists county human services departments in placing individuals with specialized care needs.
- Preserves county options to share expenditures with other counties.
- Ensures compliance with applicable federal regulations.
- The Department of Health Services supports this initiative.

February 3, 2010

NURSING HOME DISTRICT STATUTE

[Nonstatutory provision] **Declaration of legislative policy and intent.**

(1) The legislature recognizes all of the following:

(a) That some residents of Wisconsin, because of certain special needs associated with frailties of aging or a developmental or physical disability or other like incapacity, may need services provided in specialized facilities operated as units of nursing homes.

(b) That a number of nursing homes with such specialized units are operated by counties and that many residents of such units are placed there by or through county departments under s. 46.215, 46.22, 46.23, 51.42 or 51.437, both of the county that operates the nursing home and other counties.

(c) That it is not desirable or economically feasible to maintain county nursing homes with such specialized units in each county in the state.

(d) That absent legislation authorizing counties to join together to create special nursing home districts, there are certain unresolved legal questions relating to the legality of intercounty payments made in connection with the placement of an individual who is a resident of one county into a nursing home operated by another county.

(2) This legislation is designed to provide for the creation of nursing home districts made up of single or multiple counties, which districts would themselves be local units of government responsible for the licensure, maintenance and operation of a nursing home. In authorizing the creation of nursing home districts, the legislature desires to provide counties with the greatest amount of flexibility in establishing, managing, financing and operating nursing homes on a collaborative basis consistent with the intent and purpose of this section, Chapter 46, Chapter 49 and Chapter 50. This section shall be interpreted liberally in favor of authorizing counties to the maximum extent possible consistent with state and federal law to act as a single entity for the purpose of operating one or more nursing homes. The legislature intends that payments made to a nursing home district by counties that created the district not be considered to violate state or federal law restricting payments to a medical assistance provider from a third party.

Wis. Stat. § 46.201 (1) Creation. A county, or any combination of counties, may create a special purpose district that is termed a “nursing home district,” that has the power to operate and manage a nursing home that is inside one of the counties that participates in forming the district, and other powers and duties specified in this section, if each county that participates in the formation of the district does all of the following:

(a) Adopts an enabling resolution that does all of the following:

1. Declares the need for establishing the nursing home district.

2. Specifies the nursing home the district will operate and manage a nursing home,. A county or counties may create more than one nursing home district.

3. Specifies the number of individuals who shall be appointed as members of the nursing home district board, the length of their terms, the manner of their

appointment and, if the nursing home district is created by more than one county, how many members shall be appointed by each county.

(b) Files copies of the enabling resolution with the secretary of administration, the secretary of health services and the secretary of revenue.

(2) Nursing home district board.

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

(3) Powers. A nursing home district has all the powers necessary or convenient to carry out the purposes and provisions of this section. In addition to all these powers, a nursing home district may do all of the following:

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

(b) Adopt bylaws and policies and procedures for the regulation of its affairs and the conduct of its business. The bylaws, policies and procedures shall be consistent with this section and may provide a mechanism for the withdrawal of a member county or dissolution of the district.

(c) Sue and be sued.

(d) Negotiate and enter into leases or contracts for the receipt or provision of any and all goods and services necessary to conduct the business of the district.

(e) Acquire, lease, construct, equip, maintain, improve or manage a nursing home facility.

(f) Establish the financial obligations of the several counties that created the nursing home district related to the district's operations.

(g) Employ any agent, employee, or special adviser that the nursing home district finds necessary, fix and regulate his or her compensation and provide, either directly or subject to an agreement under s. 66.0301 as a participant in a benefit plan of another governmental entity, any employee benefits, including an employee pension plan.

(h) Mortgage, pledge or otherwise encumber the nursing home district's property or funds.

(i) Buy, sell or lease property, including real estate, and maintain or dispose of the property.

(j) Invest any funds not required for immediate disbursement in any of the following:

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

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

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

(k) Create a risk reserve or other special reserve as the nursing home district board desires.

(L) Accept aid, including loans, to accomplish the purpose of the nursing home district from any local, state or federal governmental agency or accept gifts, loans, grants or bequests from individuals or entities, if the conditions under which the aid, loan, gift, grant or bequest is furnished are not in conflict with this section or other applicable law or regulation.

(m) Make and execute other instruments necessary or convenient to exercise the powers of the nursing home district.

(4) Limitation on powers. A nursing home district may not issue bonds or levy a tax.

(5) Duties. The nursing home district board shall do all of the following:

(a) Establish a fiscal operating year and annually adopt a budget for the nursing home district.

(b) Contract for any legal services required for the nursing home district.

(c) Procure liability insurance covering its officers, employees, and agents, insurance against any loss in connection with its property and other assets and other necessary insurance; establish and administer a plan of self-insurance; or, subject to an agreement under s. 66.0301, participate in a governmental plan of insurance or self-insurance.

(6) Confidentiality of and public access to records. A nursing home district under this section is subject to the applicable provisions of the open records law, ss. 19.31 to 19.39, and state and federal confidentiality laws, including but not limited to ss. 51.30 and 146.82.

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

(8) Nature of entity. A nursing home district is a local unit of government that is separate and distinct from, and independent of, the state and any county. A nursing home district is a discrete legal entity, and any payments made by counties that created a nursing home district as part of those counties' financial obligations to the district under sub. (4)(f) shall be considered to be financial transfers internal to the district for the purpose of s. 49.49 (3m) or (4) and any other

similar state or federal law restricting payments to a provider medical assistance under s. 49.45 from a third party.

2/16/10 - call to Tony

- request related to recent AG opinion
- How is a district better than agreement under 66.0301Z
- For more info:
Atty Andrew Phillips
- working with counties

JAG 4-09 10/14/2009

2/17/10 Call to Andrew Phillips.
OK if instead of creating district, specify that when commission created by counties to operate a nursing home allocates costs to member counties this is not 3rd party billing and if commission accepts payment it is not violating provision that MA reimbursement is payment in full
Is OK by Andrew



PI
F

Wanted Friday

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

RMR

CPS: Check request sheet to see if changes were made OK

Gen

1 AN ACT ...; relating to: agreements between municipalities to operate a nursing
2 home.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

3 SECTION 1. 49.49 (7) of the statutes is created to read:

4 49.49 (7)(a) In this subsection:

5 1. "Nursing home commission" means a commission that is created by contract

6 between two or more municipalities under s. 66.0301 to operate a nursing home and

7 to which all of the following apply:

8 a. The commission is the named licensee for the nursing home.

9 b. The commission is the certified provider under s. 49.45 (2) (a) 11. for the

10 nursing home and is the recipient of medical assistance reimbursement for services

11 provided by the nursing home.

OPERATION OF NURSING HOME BY COMMISSION NOT PROHIBITED

each municipality that is a party to the contract

Contract

1 c. The commission owns or leases the building in which the nursing home is
2 located.

3 d. The commission provides or contracts for provision of nursing home services.

4 e. The commission controls admissions and discharges from the nursing home.

5 f. The commission allocates the costs of operating the nursing home among the
6 municipalities that are parties to the agreement and assesses each of the
7 municipalities the portion of the costs allocated to the municipality.

8 2. "Member" means a municipality that is a party to a contract to create a
9 nursing home commission.

10 3. "Municipality" has the meaning given in s. 66.0301 (1) (a).

11 (b) A nursing home commission's imposition of an assessment on a member for
12 the operating costs of the nursing home, does not constitute billing a third-party for
13 services provided on behalf of an individual.

14 (c) A nursing home commission member's payment to the nursing home
15 commission of an assessment for the operating costs of the nursing home does not
16 constitute a purchase of services on behalf of an individual.

17 (d) A nursing home commission's imposition of an assessment on a member for
18 the operating costs of the nursing home, payment of the assessment by the member,
19 and acceptance of the payment by the nursing home commission do not constitute
20 conduct prohibited under sub. (4), s. DHS 106.04 (3), Wis. Adm. Code, in effect on the
21 effective date of this paragraph ... [LRB inserts date], 42 USC 1320a-7b (d), or 42
22 USC 1396a (a) (25) (C).

(END)

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

Call from Tony

3/12/10

Nursing home draft not urgent

Call from Tony

4/2/10

Do want draft next week

Ryan, Robin

From: Andrew T. Phillips [atp@phillipsborowski.com]
Sent: Friday, March 12, 2010 1:49 PM
To: Ryan, Robin
Cc: 'Sarah Diedrick-Kasdorf'; Palese, Anthony
Subject: RE: LRB-4286/P1 (Agreements between municipalities to operate a nursing home)

Hi Robin --

I will respond to both of your emails so we can try and keep the topics straight.

1. Thanks
2. FDD is an ICFMR in terms of licensure, so if we could broaden the definition to include nursing home and ICFMR (by reference to the statutes defining the terms) I think that would be most appropriate.

Thanks --

Andy

Andrew T. Phillips
Phillips Borowski, S.C.
(262) 241-1900

From: Ryan, Robin [mailto:Robin.Ryan@legis.wisconsin.gov]
Sent: Thursday, March 11, 2010 2:02 PM
To: atp@phillipsborowski.com
Cc: Sarah Diedrick-Kasdorf; Palese, Anthony
Subject: RE: LRB-4286/P1 (Agreements between municipalities to operate a nursing home)

Andy,

I've had a chance to look at the first two comments.

1. Is a straight-forward change.
2. What do you mean by FDD? The statutes don't use that term. Do you mean an intermediate care facility for person with mental retardation? The statutes define ICFMR by citation to the federal definition, and don't say anything about how an ICFMR is licensed. The statutes also define "intermediate care facility" under s. 49.43 (7). I could refer to either term in the bill, but I don't know how to treat proposed 49.49 (7) (a) 1. How are FDDs licensed?

I'll continue to look at the other two items.

Robin

From: Andrew T. Phillips [mailto:atp@phillipsborowski.com]
Sent: Tuesday, March 09, 2010 11:24 AM
To: Ryan, Robin
Cc: 'Sarah Diedrick-Kasdorf'; Palese, Anthony
Subject: LRB-4286/P1 (Agreements between municipalities to operate a nursing home)

04/07/2010

Hi Robin –

I've been meaning to get this done for two weeks, so I apologize for the delay. WCA and I appreciate very much your successful attempt to simplify this legislation. I have a couple of additional points to comment on:

1. Because of the interplay with federal law and the definition of "public entity," not all municipalities eligible to participate in a s. 66.0301 agreement are able to be a part of a commission as we intend. WCA is interested in counties' ability to form a commission. Therefore, I question whether the bill should state that only counties, cities, villages and/or towns are authorized to form a commission. (Page 1, Line 7 of the Draft).
2. Is it your interpretation that a Facility for the Developmentally Disabled is considered a "nursing home" as defined in s. 50.01(3)? We want to be sure that a FDD is able to be included in the commission even though it may have separate licensure requirements. (the term "nursing home" is used throughout the Draft).
3. On Page 2, Lines 8-10 (49.49(7)(a)1.f.) – Can we add a provision that states: "All assessed costs by and among the member counties are not considered payments from an outside source."?
4. We would like to see a provision indicating that a purchase of services contract from a member county's human services department is not payment from an outside source, but is part of the internal assessment mechanism. This addresses what I view as one of the fundamental problems with the AG opinion.

If you could review these items at your convenience, it would be very much appreciated. If you would like to talk further about any of these points, please feel free to give me a call.

Thank you for your time and efforts.

Andy

Andrew T. Phillips
Phillips Borowski, S.C.
10140 N. Port Washington Road
Mequon, WI 53092
(262) 241-1900
Fax: (262) 241-1910

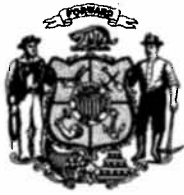
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04/07/2010



Wanted Today

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

RMR

political subdivisions

Regen

1 AN ACT to create 49.49 (7) of the statutes; relating to: agreements between
2 municipalities to operate a nursing home or intermediate care facility

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

JNS Analysis

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

3 SECTION 1. 49.49 (7) of the statutes is created to read:

4 49.49 (7) OPERATION OF NURSING HOME BY COMMISSION NOT PROHIBITED. (a) In this
5 subsection:

6 1. "Nursing home commission" means a commission that is created by contract
7 between 2 or more municipalities under s. 66.0301 to operate a nursing home and to
8 which all of the following apply:

9 a. The commission is the named licensee for the nursing home.

political subdivisions

entity

or intermediate care facility

OR INTERMEDIATE CARE FACILITY

an entity

or intermediate care facility

entity

1 b. The commission is the certified provider under s. 49.45 (2) (a) 11. for the
2 nursing home and is the recipient of medical assistance reimbursement for services
3 provided by the nursing home or intermediate care facility

4 c. The commission owns or leases the building in which the nursing home is
5 located.

6 d. The commission provides or contracts for provision of nursing home services.

7 e. The commission controls admissions and discharges from the nursing home

8 f. The commission allocates the costs of operating the nursing home among the
9 municipalities that are parties to the contract and assesses each municipality that
10 is a party to the contract the portion of the costs allocated to that municipality.

INS 2-8

entity

political subdivision

11 2. "Member" means a municipality that is a party to a contract to create a
12 nursing home commission.

13 3. "Municipality" has the meaning given in s. 66.0301 (1) (a).

14 (b) A nursing home commission's imposition of an assessment on a member for
15 the operating costs of the nursing home does not constitute billing a 3rd-party for
16 services provided on behalf of an individual.

17 (c) A nursing home commission member's payment to the nursing home
18 commission of an assessment for the operating costs of the nursing home does not
19 constitute a purchase of services on behalf of an individual.

20 (d) A nursing home commission's imposition of an assessment on a member for
21 the operating costs of the nursing home, payment of the assessment by the member,

22 and acceptance of the payment by the nursing home commission do not constitute
23 conduct prohibited under sub. (4), s. DHS 106.04 (3), Wis. Adm. Code, in effect on the

INS 2-21

1 effective date of this paragraph [LRB inserts date], 42 USC 1320a-7b (d), or 42
2 USC 1396a (a) (25) (C).

3 (END)

1

Ins Analysis:

Under current law, the Department of Health Services administers the Medical Assistance (MA) program to provide health care and long-term care services to MA recipients, who are, generally, low-income, elderly, or disabled people who meet other specific eligibility requirements. A provider of services under MA must accept the MA payment, plus any permitted coinsurance, as payment in full. A provider may not accept, and a 3rd-party may not pay a provider, any supplemental payment for a service provided under MA. Further, a facility that is an MA provider may not charge a fee for admission or continued placement of an MA recipient.

X
7

2 third

This bill provides that if two or more counties, cities, towns, or villages (political subdivisions) create a commission to operate a nursing home and the commission imposes assessments on the participating political subdivisions for the costs of operating the nursing home and providing services to residents, payment of the assessments by the political subdivisions and acceptance of the assessments by the commission do not violate prohibitions against supplementing MA payments or billing a 3rd-party for MA services. Under the bill, the commission must satisfy certain conditions, including that the commission is the licensee of the nursing home; the commission owns or leases the building in which the nursing home is located; the commission controls admissions to and discharges from the nursing home; and the commission provides, or contracts for, MA services to the residents of the nursing home.

third

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

2

3

no P

4

Ins 2-8: for intermediate care facility, and of providing services to residents of the nursing home or intermediate care facility,

6

7

Ins 2-21:

8

3. "Political subdivision" means a county, city, village, or town.

9

(b) A commission's imposition of an assessment on a member for the costs

10

incurred by the commission to operate the nursing home or intermediate care facility

11

and to provide services to residents of the nursing home or intermediate care facility

1 does not constitute billing a 3rd party for services provided on behalf of an
2 individual.

3 (c) A member's payment to the commission of an assessment described under
4 par. (b) does not constitute a purchase of services on behalf of an individual,
5 regardless of whether the payment is made from the member's general fund, made
6 pursuant to a purchase of services agreement between a member's human services
7 department or other department and the commission, or by a combination of these
8 payment methods.

9 (d) A commission's imposition of an assessment described under par. (b), a
10 member's payment of the assessment as described under par. (c),

Ryan, Robin

From: Andrew T. Phillips [atp@phillipsborowski.com]
Sent: Friday, March 12, 2010 2:14 PM
To: Ryan, Robin
Subject: RE: LRB-4286/P1 (Agreements between municipalities to operate a nursing home)

Hi Robin –

On Item 4, we could state that a part of the assessment may come from a county HSD or DCP under a purchase of services contract, but realize that the bulk of the contribution will be just a general fund transaction without a purchase contract.

On Item 3, my concern was simply clarifying that all money exchanged between the commission and the member counties would be considered “internal.” I’m probably being overly conservative, but I just wanted to make sure that came through.

I agree with your enhanced definitions and would appreciate you working those in.

Let me know if you have additional questions or if you would like to discuss any of these points in greater detail.

Thanks –

Andy

Andrew T. Phillips
 Phillips Borowski, S.C.
 (262) 241-1900

From: Ryan, Robin [mailto:Robin.Ryan@legis.wisconsin.gov]
Sent: Friday, March 12, 2010 11:28 AM
To: atp@phillipsborowski.com
Cc: Sarah Diedrick-Kasdorf; Palese, Anthony
Subject: RE: LRB-4286/P1 (Agreements between municipalities to operate a nursing home)

Andy,

In response to item 4., how about adding language in proposed s. 49.49 (7) (a) 1. f. stating that the assessment may be imposed by means of a purchase of services agreement between a member county human services department and the commission? If this works, is county human services department the only type of department that I should reference, or should I also reference a county department of community programs under s. 51.42 (3)? any others?

I don't understand where you are going with item 3. Will the member counties be making payments to each other in addition to making payments to the commission? I had assumed that since the commission runs the nursing home, all county payments should be made to the commission. Paragraphs (b) already says that the commission arrangement doesn't constitute 3rd-party billing, which is what I assume you mean by an outside source. My final comment on item 3. is that structurally the draft establishes in par. (a) 1. how the commission is set-up, and then pars. (b) to (d) say how those arrangements should be interpreted. So, perhaps the change you want in item 3. should be in pars. (b) to (d) or a new paragraph.

Would it help to rephrase the references to "operating costs of the nursing home". The AG opinion seems to distinguish between overhead costs, for which the AG says assessments are ok, and services for a patient, which apparently are a problem. When I used the term "operating costs," I meant all costs, but perhaps, this will be read in a more limited fashion. Maybe I could refer to simply to "nursing home costs" or to the "operating costs and cost of services to

04/07/2010

residents."

Robin

From: Andrew T. Phillips [mailto:atp@phillipsborowski.com]
Sent: Tuesday, March 09, 2010 11:24 AM
To: Ryan, Robin
Cc: 'Sarah Diedrick-Kasdorf'; Palese, Anthony
Subject: LRB-4286/P1 (Agreements between municipalities to operate a nursing home)

Hi Robin –

I've been meaning to get this done for two weeks, so I apologize for the delay. WCA and I appreciate very much your successful attempt to simplify this legislation. I have a couple of additional points to comment on:

1. Because of the interplay with federal law and the definition of "public entity," not all municipalities eligible to participate in a s. 66.0301 agreement are able to be a part of a commission as we intend. WCA is interested in counties' ability to form a commission. Therefore, I question whether the bill should state that only counties, cities, villages and/or towns are authorized to form a commission. (Page 1, Line 7 of the Draft).
2. Is it your interpretation that a Facility for the Developmentally Disabled is considered a "nursing home" as defined in s. 50.01(3)? We want to be sure that a FDD is able to be included in the commission even though it may have separate licensure requirements. (the term "nursing home" is used throughout the Draft).
3. On Page 2, Lines 8-10 (49.49(7)(a)1.f.) – Can we add a provision that states: "All assessed costs by and among the member counties are not considered payments from an outside source."?
4. We would like to see a provision indicating that a purchase of services contract from a member county's human services department is not payment from an outside source, but is part of the internal assessment mechanism. This addresses what I view as one of the fundamental problems with the AG opinion.

If you could review these items at your convenience, it would be very much appreciated. If you would like to talk further about any of these points, please feel free to give me a call.

Thank you for your time and efforts.

Andy

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04/07/2010

Duerst, Christina

From: Palese, Anthony
Sent: Thursday, April 08, 2010 1:37 PM
To: LRB.Legal
Subject: Draft Review: LRB 09-4286/1 Topic: Nursing home operated by a multi-county commission

Please Jacket LRB 09-4286/1 for the ASSEMBLY.