



2009 SENATE BILL 684

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

Analysis by the Legislative Reference Bureau

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 OR INTERMEDIATE CARE FACILITY BY
5 COMMISSION NOT PROHIBITED. (a) In this subsection:

6 1. "Commission" means an entity that is created by contract between 2 or more
7 political subdivisions under s. 66.0301 to operate a nursing home or intermediate
8 care facility and to which all of the following apply:

9 a. The entity is the named licensee for the nursing home or intermediate care
10 facility.

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

5 c. The entity owns or leases the building in which the nursing home or
6 intermediate care facility is located.

7 d. The entity provides or contracts for provision of nursing home or
8 intermediate care facility services.

9 e. The entity controls admissions and discharges from the nursing home or
10 intermediate care facility.

11 f. The entity allocates the costs of operating the nursing home or intermediate
12 care facility, and of providing services to residents of the nursing home or
13 intermediate care facility, among the political subdivisions that are parties to the
14 contract and assesses each political subdivision that is a party to the contract the
15 portion of the costs allocated to that political subdivision.

16 2. “Member” means a political subdivision that is a party to a contract to create
17 a commission.

18 3. “Political subdivision” means a county, city, village, or town.

19 (b) A commission’s imposition of an assessment on a member for the costs
20 incurred by the commission to operate the nursing home or intermediate care facility
21 and to provide services to residents of the nursing home or intermediate care facility
22 is a charge internal to the commission and does not constitute billing a 3rd party for
23 services provided on behalf of an individual.

24 (c) A member’s payment of an assessment described under par. (b) is a transfer
25 of funds internal to the commission and does not constitute a purchase of services on

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1 behalf of an individual, regardless of whether the payment is made from the
2 member's general fund, made pursuant to a purchase of services agreement between
3 a member's human services department or other department and the commission,
4 or by a combination of these payment methods.

5 (d) A commission's imposition of an assessment described under par. (b), a
6 member's payment of the assessment as described under par. (c), and acceptance of
7 the payment by the commission do not constitute conduct prohibited under sub. (4)
8 or prohibited under s. DHS 106.04 (3), Wis. Adm. Code, in effect on the effective date
9 of this paragraph [LRB inserts date]. It is the intent of the legislature to create
10 a mechanism whereby 2 or more political subdivisions may share in the operation,
11 use, and funding of a nursing home or intermediate care facility without violating
12 42 USC 1320a-7b (d) or 42 USC 1396a (a) (25) (C).

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(END)