

**SENATE BILL 212 (LRB -2968)**

An Act to repeal 50.04 (5) (a) 5m.; to amend 20.435 (6) (g), 50.03 (4) (a) 1. a., 50.03 (4m) (a), 50.03 (5) (a), 50.03 (5) (b), 50.03 (7) (a), 50.03 (13) (a), 50.04 (4) (a) 1., 50.04 (4) (a) 2. b., 50.04 (4) (c) 1., 50.04 (4) (d) 2., 50.04 (4) (e) 1., 50.04 (5) (c), 50.04 (5) (e), 50.04 (5) (f), 50.04 (5) (fm), 50.05 (2) (f) (intro.) and 50.05 (2) (f) 2.; to repeal and recreate 50.04 (4) (d) 1. a., 50.04 (4) (d) 1. b. and 50.04 (6) (a); and to create 50.01 (1ng), 50.04 (4) (am) and 50.04 (8) of the statutes; relating to: regulation of nursing homes, requiring the exercise of rule-making authority, and making an appropriation. (FE)

**2011**

10-05.	S.	Introduced by Senators <b>Galloway, Lazich, Holperin, Schultz, Shilling, Vinehout</b> and <b>Wirch</b> ; cosponsored by Representatives <b>Knodl, Wynn, Nygren, Ballweg, Bernier, Bewley, Brooks, Danou, Doyle, Kestell, T. Larson, LeMahieu, Molepske Jr, Mursau, A. Ott, Petryk, Ripp, Spanbauer, Strachota, Thiesfeldt, Tranel, Van Roy, Williams</b> and <b>Vos</b> .	
10-05.	S.	Read first time and referred to committee on Public Health, Human Services, and Revenue .....	481
10-13.	S.	Public hearing held.	
10-14.	S.	Fiscal estimate received.	
10-20.	S.	Executive action taken.	
10-21.	S.	Report passage recommended by committee on Public Health, Human Services, and Revenue, Ayes 4, Noes 1 .....	522
10-21.	S.	Available for scheduling.	
10-26.	S.	Fiscal estimate received.	
10-26.	S.	Referred to joint committee on Finance by committee on Senate Organization, pursuant to Senate Rule 41 (1)(e), Ayes 5, Noes 0 .....	539
10-26.	S.	Withdrawn from joint committee on Finance and made Available for Scheduling by committee on Senate Organization, pursuant to Senate Rule 41 (1)(e), Ayes 5, Noes 0 .....	539
10-26.	S.	Placed on calendar 10-27-2011 pursuant to Senate Rule 18(1) .....	540
10-27.	S.	Read a second time .....	549
10-27.	S.	Senate amendment 1 offered by Senators Vinehout, Holperin, King, Miller, Hansen and Taylor ( <b>LRB a1819</b> ) .....	549
10-27.	S.	Senate amendment 1 laid on table.	
10-27.	S.	Senate amendment 2 offered by Senators Holperin, Vinehout, Taylor, Hansen, Lassa and Miller ( <b>LRB a1823</b> ) .....	549
10-27.	S.	Senate amendment 2 withdrawn and returned to author .....	549
10-27.	S.	Senate amendment 3 offered by Senators Carpenter and Lassa ( <b>LRB a1834</b> ) .....	549
10-27.	S.	Senate amendment 3 laid on table, Ayes 16, Noes 15 .....	549
10-27.	S.	Ordered to a third reading .....	549
10-27.	S.	Rules suspended .....	549
✓ 10-27.	S.	Read a third time and <b>passed</b> , Ayes 24, Noes 7 .....	549
10-27.	S.	Ordered immediately messaged .....	549
10-27.	A.	Received from Senate .....	622
10-27.	A.	Read first time and referred to committee on Rules .....	622
10-27.	A.	Placed on calendar 11-1-2011 by committee on Rules.	
10-31.	A.	Assembly amendment 1 offered by Representative Danou ( <b>LRB a1843</b> ) .....	628
11-01.	A.	Assembly substitute amendment 1 offered by Representatives Barca, Mason and Turner ( <b>LRB s0249</b> ) .....	632
11-01.	A.	Made a special order of business at 11:09 A.M. on 11-03-2011 pursuant to Assembly Resolution 18 .....	647
11-03.	A.	Read a second time.	
11-03.	A.	Assembly substitute amendment 1 withdrawn and returned to author.	
11-03.	A.	Assembly amendment 1 withdrawn and returned to author.	
11-03.	A.	Ordered to a third reading.	
11-03.	A.	Rules suspended.	
✓ 11-03.	A.	Read a third time and <b>concurred in</b> , Ayes 70, Noes 22, Paired 6.	
11-03.	A.	Ordered immediately messaged.	
11-04.	S.	Received from Assembly concurred in.	

JP

**2011  
ENROLLED BILL**

**11en 5 B-212**

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**ADOPTED DOCUMENTS:**

**Orig**     **Engr**         **SubAmdt**     

**11** 2968 / 1

**Amendments to above (if none, write "NONE"):** None

**Corrections - show date (if none, write "NONE"):** None

**Topic** Rel

11-4-11  
**Date**

Tom F. Knapp  
**Enrolling Drafter**



## 2011 SENATE BILL 212

October 5, 2011 - Introduced by Senators GALLOWAY, LAZICH, HOLPERIN, SCHULTZ, SHILLING, VINEHOUT and WIRCH, cosponsored by Representatives KNODL, WYNN, NYGREN, BALLWEG, BERNIER, BEWLEY, BROOKS, DANOU, DOYLE, KESTELL, T. LARSON, LEMAHIEU, MOLEPSKE JR, MURSAU, A. OTT, PETRYK, RIPP, SPANBAUER, STRACHOTA, THIESFELDT, TRANEL, VAN ROY, WILLIAMS and VOS. Referred to Committee on Public Health, Human Services, and Revenue.

1     **AN ACT** *to repeal* 50.04 (5) (a) 5m.; *to amend* 20.435 (6) (g), 50.03 (4) (a) 1. a.,  
2             50.03 (4m) (a), 50.03 (5) (a), 50.03 (5) (b), 50.03 (7) (a), 50.03 (13) (a), 50.04 (4)  
3             (a) 1., 50.04 (4) (a) 2. b., 50.04 (4) (c) 1., 50.04 (4) (d) 2., 50.04 (4) (e) 1., 50.04 (5)  
4             (c), 50.04 (5) (e), 50.04 (5) (f), 50.04 (5) (fm), 50.05 (2) (f) (intro.) and 50.05 (2) (f)  
5             2.; *to repeal and recreate* 50.04 (4) (d) 1. a., 50.04 (4) (d) 1. b. and 50.04 (6)  
6             (a); and *to create* 50.01 (1ng), 50.04 (4) (am) and 50.04 (8) of the statutes;  
7             **relating to:** regulation of nursing homes, requiring the exercise of  
8             rule-making authority, and making an appropriation.

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### *Analysis by the Legislative Reference Bureau*

#### *Federal and state requirements for nursing homes*

Under current law, a nursing home that receives Medicaid or Medicare funding for the care of a resident is subject to both federal and state requirements. The Department of Health Services (DHS) enforces both federal and state requirements for nursing homes. Currently, for nursing homes that are Medicaid and Medicare providers, DHS may issue both federal and state citations for the same practice and may recommend federal remedies and impose state sanctions. This bill prohibits DHS from issuing a notice of violation of a state requirement to a nursing home that is a Medical Assistance or Medicare provider if DHS has, in a statement of deficiency,

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cited the nursing home for a violation of a federal requirement that is based on the same facts.

Under current law, DHS may seek an injunction in court to enjoin the repeated violation of the state's nursing home statutes or a rule promulgated under the authority of the state's nursing home statutes. The bill allows DHS to seek an injunction to enjoin repeated violation of certain federal requirements related to the operation of a nursing home.

***Monetary penalties***

Under current law, DHS may assess a forfeiture against a nursing home for a violation of a state requirement. There is no time limit for DHS to assess a forfeiture for a violation. Nursing homes must pay forfeitures to DHS within ten days after receipt of notice of imposition of the forfeiture or after receipt of the final decision after exhaustion of administrative review. If a nursing home does not contest a notice of violation and a forfeiture and pays the forfeiture within ten days after receipt of the notice, DHS must reduce the forfeiture amount by 35 percent.

The bill requires DHS to impose a forfeiture within 120 days of notifying a nursing home of a violation or DHS loses the authority to impose a forfeiture. The bill changes to 60 days the time period by which a nursing home must pay forfeitures to DHS after receipt of the notice of imposition or the final decision after exhaustion of administrative review, and also changes to 60 days the time period within which a nursing home may pay a forfeiture and have the forfeiture amounts reduced by 35 percent.

***Appeals***

Currently, in order to appeal a DHS finding that the nursing home violated a state requirement, a nursing home must request a hearing on the finding within ten days of receiving notice of the violation. If DHS assesses a forfeiture for the violation and the nursing home wishes to appeal the forfeiture, the nursing home must request a separate hearing on the forfeiture within ten days of receiving notice of a contested action. Upon request of the nursing home, the hearing on the finding of violation may be stayed until DHS assesses a forfeiture so that the hearing on the finding of violation and the hearing on the forfeiture may be consolidated.

The bill extends the deadline for a nursing home to request a hearing on a finding that the nursing home violated a state requirement to 60 days after receipt of the notice of violation. The bill also extends the deadline for requesting a hearing on a forfeiture to 60 days after receipt of notice of the forfeiture. The bill further provides that, if a nursing home timely appeals both a finding of violation and a forfeiture, the hearings on the violation and the forfeiture will be consolidated.

***Conditional and probationary licenses***

Currently, in addition to the right to impose a forfeiture on a nursing home for violations, DHS may issue a conditional license to a nursing home in which DHS finds that a class "A" or a class "B" violation continues to exist. (A class "A" violation creates a condition or occurrence relating to the operation and maintenance of a nursing home that presents a substantial probability that death or serious mental or physical harm to a nursing home resident will result. A class "B" violation creates a condition or occurrence relating to the operation and maintenance of a nursing

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home that directly threatens the health, safety, or welfare of a nursing home resident.) Issuing a conditional license revokes any outstanding license held by the nursing home.

This bill expands the standard for issuance by DHS of a conditional license for a nursing home to also include a continuing violation of federal law that constitutes immediate jeopardy or actual harm not involving immediate jeopardy to a nursing home resident.

Under current law, an applicant for a nursing home license that has not been previously licensed to operate a nursing home or whose nursing home is not operating at the time of application is issued a probationary license. To obtain a regular license, DHS inspects the nursing home to determine whether the nursing home meets the requirements for licensure. The bill specifies that a nursing home operating under a probationary license must also substantially comply with requirements under certain federal regulations related to the operation of a nursing home, if applicable, in order to obtain a regular license.

***Suspension of admissions***

Under current law, DHS must suspend new admissions to a nursing home if the nursing home received notices of a class "A" violation or three or more class "B" violations in the previous 12 months; and if the nursing home received notices of a class "A" violation or three or more class "B" violations in any 12-month period during the three years immediately preceding the previous 12 months. Suspension of admissions begins 90 days after a nursing home receives its last notice of a class "A" or class "B" violation if DHS determines that the violation is uncorrected 90 days after the last notice or on the day that DHS makes a return visit to the nursing home and determines that the violation has not been corrected. A suspension must remain in effect until DHS determines that the nursing home has corrected all class "A" and class "B" violations.

This bill expands the standard for suspension of new admissions to a nursing home to include circumstances under which a nursing home received written notice of a violation that involved immediate jeopardy to a resident; a class "A" violation; or three or more class "B" violations or violations that constituted actual harm not involving immediate jeopardy to a resident. These circumstances must have occurred both in the previous 15 months and in any 15-month period during the 36 months immediately preceding the previous 15 months. Under the bill, a suspension of admissions may begin only 90 days after a nursing home receives its last notice of a violation if DHS determines that the violation is uncorrected 90 days after the last notice. Suspension of admissions must remain in effect until DHS determines that the nursing home has corrected the violation in question.

***Suspension or revocation of licensure***

Currently, DHS may, after providing notice to a nursing home applicant or licensee, suspend or revoke the license if DHS finds that the nursing home substantially failed to comply with applicable state statutes or rules. No state or federal funds passing through the state treasury may be paid to a nursing home that does not have a valid license. This bill also permits DHS to suspend or revoke a nursing home license if the nursing home has substantially failed to comply with

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specified state law or with federal requirements related to the operation of a nursing home.

***Notices of violation***

In certain circumstances under current law, DHS must provide a notice of violation to a nursing home, such as the presence in a nursing home of a class “A” or “B” violation. The department currently is not required to serve a notice of violation if the nursing home reports the violation to DHS and the violation occurs and remains uncorrected despite the nursing home’s every reasonable effort to prevent and correct the violation. This bill expands the circumstances under which DHS is not required to serve a notice of violation to include situations in which a nursing home reports the violation to DHS and has corrected the violation.

***Quality improvements***

This bill allows DHS to distribute moneys, including civil money penalties collected under a certain federal regulation, for innovative projects designed to protect the property and the health, safety, and welfare of nursing home residents and to improve the efficiency and cost effectiveness of the operation of nursing home facilities. Also, under the bill, DHS must establish and maintain a quality assurance and improvement committee to review proposals and award moneys for those innovative projects.

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

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

1           **SECTION 1.** 20.435 (6) (g) of the statutes is amended to read:  
2           20.435 **(6)** (g) *Nursing facility resident protection.* All moneys received from the  
3 penalty assessment surcharges on forfeitures that are levied by the department  
4 under s. 49.498 (16) (c) 1., 2. and 3. and the interest under s. 49.498 (16) (d) and from  
5 civil money penalties collected under 42 CFR 488.442 to finance nursing facility  
6 resident protection under s. 49.499 and any projects under s. 50.04 (8) to protect the  
7 property and the health, safety, and welfare of nursing home residents and to  
8 improve the efficiency and cost effectiveness of the operation of nursing homes.

9           **SECTION 2.** 50.01 (1ng) of the statutes is created to read:

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1           50.01 (1ng) "Immediate jeopardy" means a situation in which a nursing home's  
2 noncompliance with one or more requirements under 42 CFR 483 related to the  
3 operation of a nursing home has caused, or is likely to cause, serious injury, harm,  
4 impairment, or death to a resident.

5           SECTION 3. 50.03 (4) (a) 1. a. of the statutes is amended to read:

6           50.03 (4) (a) 1. a. Except as provided in sub. (4m) (a), the department shall issue  
7 a license for a nursing home if it finds the applicant to be fit and qualified and if it  
8 finds that the nursing home meets the requirements established by this subchapter  
9 and, as applicable, requirements under 42 CFR 483 related to the operation of a  
10 nursing home. The department, or its designee, shall make such inspections and  
11 investigations as are necessary to determine the conditions existing in each case and  
12 shall file written reports. The department shall promulgate rules defining "fit and  
13 qualified" for the purposes of this subd. 1. a.

14           SECTION 4. 50.03 (4m) (a) of the statutes is amended to read:

15           50.03 (4m) (a) If the applicant for licensure as a nursing home has not been  
16 previously licensed under this subchapter or if the nursing home is not in operation  
17 at the time application is made, the department shall issue a probationary license.  
18 A probationary license shall be valid for 12 months from the date of issuance unless  
19 sooner suspended or revoked under sub. (5). Prior to the expiration of a probationary  
20 license, the department shall inspect the nursing home and, if the nursing home  
21 meets the applicable requirements for licensure and, if applicable, substantially  
22 complies with requirements under 42 CFR 483 related to the operation of a nursing  
23 home, shall issue a regular license under sub. (4) (a) 1. a. If the department finds that  
24 the nursing home does not meet the requirements for licensure or does not  
25 substantially comply with requirements under 42 CFR 483 related to the operation

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## SECTION 4

1 of a nursing home, the department may not issue a regular license under sub. (4) (a)

2 1. a.

3 SECTION 5. 50.03 (5) (a) of the statutes is amended to read:

4 50.03 (5) (a) *Power of department.* The department, after notice to a nursing  
5 home applicant or licensee, may suspend or revoke a license in any case in which the  
6 department finds that the nursing home has substantially failed to comply with the  
7 applicable requirements of this subchapter and the rules promulgated under this  
8 subchapter, with s. 49.498, or with requirements under 42 CFR 483 related to the  
9 operation of a nursing home. No state or federal funds passing through the state  
10 treasury may be paid to a nursing home that does not have a valid license issued  
11 under this section.

12 SECTION 6. 50.03 (5) (b) of the statutes is amended to read:

13 50.03 (5) (b) *Form of notice.* Notice under this subsection shall include a clear  
14 and concise statement of the violations on which the revocation is based, the statute  
15 ~~or~~, rule, or federal requirement violated and notice of the opportunity for an  
16 evidentiary hearing under par. (c).

17 SECTION 7. 50.03 (7) (a) of the statutes is amended to read:

18 50.03 (7) (a) *Licensed facility.* Notwithstanding the existence or pursuit of any  
19 other remedy, the department may, upon the advice of the attorney general, maintain  
20 an action in the name of the state in the circuit court for injunction or other process  
21 against any licensee, owner, operator, administrator or representative of any owner  
22 of a facility to restrain and enjoin the repeated violation of any of the provisions of  
23 this subchapter ~~or~~, rules promulgated by the department under this subchapter, or  
24 requirements under 42 CFR 483 related to the operation of a nursing home where  
25 the violation affects the health, safety or welfare of the residents.



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1           **SECTION 8.** 50.03 (13) (a) of the statutes is amended to read:

2           50.03 (13) (a) *New license.* Whenever ownership of a facility is transferred from  
3 the person or persons named in the license to any other person or persons, the  
4 transferee must obtain a new license. The license may be a probationary license.  
5 Penalties under sub. (1) shall apply to violations of this subsection. The transferee  
6 shall notify the department of the transfer, file an application under sub. (3) (b), and  
7 apply for a new license at least 30 days prior to final transfer. Retention of any  
8 interest required to be disclosed under sub. (3) (b) after transfer by any person who  
9 held such an interest prior to transfer may constitute grounds for denial of a license  
10 where violations of this subchapter, or of requirements of 42 CFR 483 related to the  
11 operation of a nursing home, for which notice had been given to the transferor are  
12 outstanding and uncorrected, if the department determines that effective control  
13 over operation of the facility has not been transferred. If the transferor was a  
14 provider under s. 49.43 (10), the transferee and transferor shall comply with s. 49.45  
15 (21).

16           **SECTION 9.** 50.04 (4) (a) 1. of the statutes is amended to read:

17           50.04 (4) (a) 1. If Except as provided in par. (am) 2., if upon inspection or  
18 investigation the department determines that a nursing home is in violation of this  
19 subchapter or the rules promulgated under it and the violation is a class “A” or “B”  
20 violation, it shall promptly serve a notice of violation upon the licensee. Each notice  
21 of violation shall be prepared in writing and shall specify the nature of the violation,  
22 and the statutory provision or rule alleged to have been violated. The notice shall  
23 inform the licensee of the right to a hearing under par. (e). The written notice of a  
24 class “A” violation may be written and served by an agent of the department at the  
25 time of the inspection.

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1           **SECTION 10.** 50.04 (4) (a) 2. b. of the statutes is amended to read:

2           50.04 (4) (a) 2. b. The nursing home has made every reasonable effort to prevent  
3 and correct the violation, but the violation occurred and remains uncorrected due to  
4 circumstances beyond the nursing home's control, or the nursing home has corrected  
5 the violation.

6           **SECTION 11.** 50.04 (4) (am) of the statutes is created to read:

7           50.04 (4) (am) *Dual federal and state violations.* 1. Notwithstanding s. 50.01  
8 (3), in this paragraph, "nursing home" does not include a facility serving people with  
9 developmental disabilities.

10          2. If an act or omission constitutes a violation of this subchapter or the rules  
11 promulgated under this subchapter, s. 49.498, or requirements under 42 CFR 483  
12 related to the operation of a nursing home, the department may not issue under s.  
13 50.04 (4) (a) a notice of violation of this subchapter, the rules promulgated under this  
14 subchapter, or s. 49.498 if the department has, in a statement of deficiency, cited the  
15 nursing home for the violation under requirements under 42 CFR 483 related to the  
16 operation of a nursing home.

17          **SECTION 12.** 50.04 (4) (c) 1. of the statutes is amended to read:

18          50.04 (4) (c) 1. The situation, condition or practice constituting a class "A"  
19 violation or immediate jeopardy shall be abated or eliminated immediately unless  
20 a fixed period of time, as determined by the department and specified in the notice  
21 of violation, is required for correction. If the class "A" violation or immediate  
22 jeopardy is not abated or eliminated within the specified time period, the department  
23 shall maintain an action in circuit court for injunction or other process against the  
24 licensee, owner, operator, administrator or representative of the facility to restrain  
25 and enjoin violation of applicable rules, regulations and statutes.

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1 SECTION 13. 50.04 (4) (d) 1. a. of the statutes is repealed and recreated to read:

2 50.04 (4) (d) 1. a. In the previous 15 months, the nursing home received written  
3 notice of a violation of a state statute or rule or a federal statute or regulation that  
4 involved immediate jeopardy to a resident; a class “A” violation; or 3 or more class  
5 “B” violations or violations that constituted actual harm not involving immediate  
6 jeopardy to a resident.

7 SECTION 14. 50.04 (4) (d) 1. b. of the statutes is repealed and recreated to read:

8 50.04 (4) (d) 1. b. In any 15-month period during the 36 months immediately  
9 preceding the period specified in subd. 1. a., the nursing home received written notice  
10 of a violation of a state statute or rule or a federal statute or regulation that involved  
11 immediate jeopardy to a resident; a class “A” violation; or 3 or more class “B”  
12 violations or violations that constituted actual harm not involving immediate  
13 jeopardy to a resident.

14 SECTION 15. 50.04 (4) (d) 2. of the statutes is amended to read:

15 50.04 (4) (d) 2. A suspension of admissions under subd. 1. shall begin 90 days  
16 after a nursing home received its last notice of violation for a class “A” or class “B”  
17 violation specified in subd. 1. a. if the department determines that the violation  
18 remains uncorrected 90 days after the nursing home received the last notice of the  
19 violation. ~~If the nursing home indicates to the department that the violation has~~  
20 ~~been corrected, but the department is unable to verify that the violation has been~~  
21 ~~corrected, a suspension of admissions under subd. 1. shall begin on the day that the~~  
22 ~~department makes a return visit to the nursing home and determines that the~~  
23 ~~violation has not been corrected.~~ A suspension of admissions under subd. 1. shall  
24 remain in effect until the department determines that all class “A” and class “B”  
25 ~~violations by the nursing home have been~~ has corrected the violation. Admission of

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1 a new resident during the period for which admissions have been suspended  
2 constitutes a class “B” violation.

3 **SECTION 16.** 50.04 (4) (e) 1. of the statutes is amended to read:

4 50.04 (4) (e) 1. If a nursing home desires to contest any department action  
5 under this subsection, it shall send a written request for a hearing under s. 227.44  
6 to the division of hearings and appeals created under s. 15.103 (1) within ~~10~~ 60 days  
7 of receipt of notice of the contested action. Department action that is subject to a  
8 hearing under this subsection includes service of a notice of a violation of this  
9 subchapter or rules promulgated under this subchapter, a notation in the report  
10 under sub. (3) (b), imposition of a plan of correction, and rejection of a nursing home’s  
11 plan of correction, but does not include a correction order. Upon the request of the  
12 nursing home, the division shall grant a stay of the hearing under this paragraph  
13 until the department assesses a forfeiture, so that its hearing under this paragraph  
14 is consolidated with the forfeiture appeal hearing held under sub. (5) (e). All agency  
15 action under this subsection arising out of a violation, deficiency, or rejection and  
16 imposition of a plan of correction shall be the subject of a single hearing. Unless a  
17 stay is granted under this paragraph, the division shall commence the hearing  
18 within 30 days of the request for hearing, within 30 days of the department’s  
19 acceptance of a nursing home’s plan of correction, or within 30 days of the  
20 department’s imposition of a plan of correction, whichever is later. The division shall  
21 send notice to the nursing home in conformance with s. 227.44. Issues litigated at  
22 the hearing may not be relitigated at subsequent hearings under this paragraph  
23 arising out of the same violation or deficiency.

24 **SECTION 17.** 50.04 (5) (a) 5m. of the statutes is repealed.

25 **SECTION 18.** 50.04 (5) (c) of the statutes is amended to read:

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1           50.04 (5) (c) *Assessment of forfeitures; powers and duties of department.* The  
2 department may directly assess forfeitures provided for under par. (a). If the  
3 department determines that a forfeiture should be assessed for a particular violation  
4 or for failure to correct it, ~~it~~ the department shall send a notice of assessment of  
5 forfeiture to the nursing home. The notice shall specify the amount of the forfeiture  
6 assessed, the violation, and the statute or rule alleged to have been violated, and  
7 shall inform the licensee of the right to hearing under par. (e). If the department does  
8 not issue a notice of forfeiture within 120 days after the date on which a nursing home  
9 receives the notice of a violation, the department may not assess a forfeiture for the  
10 violation.

11           SECTION 19. 50.04 (5) (e) of the statutes is amended to read:

12           50.04 (5) (e) *Forfeiture appeal hearing.* A nursing home may contest an  
13 assessment of a forfeiture by sending, within ~~10~~ 60 days after receipt of notice of ~~a~~  
14 ~~contested action~~ the assessment of the forfeiture, a written request for hearing under  
15 s. 227.44 to the division of hearings and appeals created under s. 15.103 (1). The  
16 administrator of the division may designate a hearing examiner to preside over the  
17 case and recommend a decision to the administrator under s. 227.46. The decision  
18 of the administrator of the division shall be the final administrative decision. The  
19 division shall commence the hearing within 30 days of receipt of the request for  
20 hearing and shall issue a final decision within 15 days after the close of the hearing.  
21 Proceedings before the division are governed by ch. 227. In any petition for judicial  
22 review of a decision by the division, the party, other than the petitioner, who was in  
23 the proceeding before the division shall be the named respondent. If, after receipt  
24 of notice of assessment of a forfeiture, a nursing home that has timely requested a  
25 hearing under sub. (4) (e) on the notice of violation under sub. (4) for which the

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1 forfeiture was assessed requests a hearing under this paragraph on the assessment  
2 of the forfeiture, the hearing on the notice of violation under sub. (4) and the hearing  
3 on the assessment of the forfeiture shall be consolidated.

4 SECTION 20. 50.04 (5) (f) of the statutes is amended to read:

5 50.04 (5) (f) *Forfeitures paid within ~~10~~ 60 days.* All forfeitures shall be paid to  
6 the department within ~~10~~ 60 days of receipt of notice of assessment of the forfeiture  
7 or, if the forfeiture is contested under par. (e), within ~~10~~ 60 days of receipt of the final  
8 decision after exhaustion of administrative review, unless the final decision is  
9 appealed and the order is stayed by court order under s. 50.03 (11). The department  
10 shall remit all forfeitures paid to the secretary of administration for deposit in the  
11 school fund.

12 SECTION 21. 50.04 (5) (fm) of the statutes is amended to read:

13 50.04 (5) (fm) *Forfeiture reduction for timely payment.* If a nursing home does  
14 not contest a notice of violation under sub. (4) (e) and does not contest an assessment  
15 of a forfeiture under par. (e) for a class “A” or class “B” violation and pays the  
16 forfeiture to the department within ~~10~~ 60 days after receipt of the notice of  
17 assessment of the forfeiture, the department shall reduce the amount of the  
18 assessment forfeiture by ~~35%~~ 35 percent.

19 SECTION 22. 50.04 (6) (a) of the statutes is repealed and recreated to read:

20 50.04 (6) (a) *Power of department.* 1. In addition to the right to impose  
21 forfeitures under sub. (5), the department may issue a conditional license to any  
22 nursing home if the department finds that any of the following is true:

23 a. A class “A” or class “B” violation, as defined in sub. (4), continues to exist in  
24 the nursing home.

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1           b. A federal violation continues to exist that constitutes immediate jeopardy or  
2 actual harm not involving immediate jeopardy to a resident.

3           2. The issuance of a conditional license shall revoke any outstanding license  
4 held by the nursing home.

5           3. The nursing home may seek review of a decision to issue a conditional license  
6 as provided in s. 50.03 (5).

7           **SECTION 23.** 50.04 (8) of the statutes is created to read:

8           **50.04 (8) PROTECTION AND COST EFFECTIVENESS PROGRAMS; QUALITY ASSURANCE.**

9           (a) The department may distribute moneys from the appropriation account under  
10 s. 20.435 (6) (g) for innovative projects designed to protect the property and the  
11 health, safety, and welfare of residents in nursing homes and to improve the  
12 efficiency and cost effectiveness of the operation of facilities so as to improve the  
13 quality of life, care, and treatment of residents.

14           (b) The department shall establish and maintain a quality assurance and  
15 improvement committee to review proposals and award moneys for innovative  
16 projects, as described in par. (a), that are approved by the committee. The  
17 department shall promulgate rules to guide the actions of the quality assurance and  
18 improvement committee.

19           **SECTION 24.** 50.05 (2) (f) (intro.) of the statutes is amended to read:

20           50.05 (2) (f) (intro.) The facility is a nursing facility that is in violation of s.  
21 49.498 ~~or~~, a rule promulgated under s. 49.498, or a requirement under 42 CFR 483  
22 related to the operation of a nursing facility, meets the criteria established by rule  
23 under s. 49.498 (14) (c) for placement of a monitor or appointment of a receiver, and  
24 there is a need for placement of a monitor or appointment of a receiver during the  
25 period that any of the following applies:

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1           **SECTION 25.** 50.05 (2) (f) 2. of the statutes is amended to read:

2           50.05 (2) (f) 2. The nursing facility institutes improvements in order to bring  
3 the nursing facility into compliance with the requirements of s. 49.498 ~~or~~, a rule  
4 promulgated under s. 49.498, or a requirement under 42 CFR 483 related to the  
5 operation of a nursing facility.

6           **SECTION 26. Initial applicability.**

7           (1) **HEARING REQUESTS.** The treatment of section 50.04 (4) (e) 1. and (5) (e) of the  
8 statutes first applies to requests for hearings related to a notice of violation, a report  
9 notation, a of plan correction, or a rejection of a plan of correction that is issued on  
10 the effective date of this subsection.

11           (2) **CONDITIONAL LICENSURE.** The treatment of sections 50.01 (1ng) and 50.04 (6)  
12 (a) of the statutes first applies to violations that continue to exist on the effective date  
13 of this subsection.

14           (3) **SUSPENSION OF ADMISSIONS.** The treatment of sections 50.01 (1ng) and 50.04  
15 (4) (d) 1. a. and b. and (d) 2. of the statutes first applies to written notice of violations  
16 received on the effective date of this subsection.

17           (4) **SUSPENSION OR REVOCATION OF LICENSURE.** The treatment of section 50.03 (5)  
18 (a) and (b) of the statutes first applies to findings made by the department of health  
19 services on the effective date of this subsection.

20           (5) **PROVISIONAL LICENSE.** The treatment of section 50.03 (4m) (a) of the statutes  
21 first applies to inspections made by the department of health services on the effective  
22 date of this subsection.



