



## 2013 SENATE BILL 560

1     **AN ACT** *to repeal* 50.36 (3g) and 50.36 (6m) (a) 1.; *to amend* 50.35, 50.36 (1),  
2             50.36 (2) (a), 50.36 (2) (b), 50.36 (3m), 50.36 (4), 50.36 (6m) (a) (intro.), 50.36  
3             (6m) (a) 2., 50.36 (6m) (a) 3., 50.36 (6m) (b), 50.37 (intro.), 50.37 (4), 50.39 (1)  
4             and 323.19 (1); and *to create* 50.33 (1c), 50.33 (3), 50.36 (1m), 50.36 (3) (am) and  
5             50.36 (3L) of the statutes; **relating to:** regulation of hospitals, granting  
6             rule-making authority, and requiring the exercise of rule-making authority.

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*Analysis by the Legislative Reference Bureau*

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

7             **SECTION 1.** 50.33 (1c) of the statutes is created to read:  
8             50.33 (1c) “Conditions for Medicare participation for hospitals” means the  
9             conditions of participation specified under 42 CFR 482 or, with respect to critical  
10            access hospitals, 42 CFR 485.

**SENATE BILL 560****SECTION 2**

1           **SECTION 2.** 50.33 (3) of the statutes is created to read:

2           50.33 (3) “Requirements for hospitals” means all of the rules, standards, and  
3 requirements described in or promulgated under ss. 50.32 to 50.39 that apply to  
4 hospitals, including the standards described under s. 50.36 (1).

5           **SECTION 3.** 50.35 of the statutes is amended to read:

6           **50.35 Application and approval.** Application for approval to maintain a  
7 hospital shall be made to the department on forms provided by the department. On  
8 receipt of an application, the department shall, except as provided in s. 50.498, issue  
9 a certificate of approval if the applicant and hospital facilities meet the requirements  
10 ~~established by the department for hospitals.~~ The department shall issue a single  
11 certificate of approval for the University of Wisconsin Hospitals and Clinics  
12 Authority that applies to all of the Authority’s inpatient and outpatient hospital  
13 facilities that meet the requirements ~~established by the department for hospitals~~  
14 and for which the Authority requests approval. For a free-standing pediatric  
15 teaching hospital, the department shall issue a single certificate of approval that  
16 applies to all of the hospital’s inpatient and outpatient hospital facilities that meet  
17 the requirements ~~established by the department for hospitals~~ and for which the  
18 hospital requests approval. Except as provided in s. 50.498, this approval shall be  
19 in effect until, for just cause and in the manner herein prescribed, it is suspended or  
20 revoked. The certificate of approval may be issued only for the premises and persons  
21 or governmental unit named in the application and is not transferable or assignable.  
22 The department shall withhold, suspend, or revoke approval for a failure to comply  
23 with s. 165.40 (6) (a) 1. or 2., but, except as provided in s. 50.498, otherwise may not  
24 withhold, suspend, or revoke approval unless for a substantial failure to comply with  
25 ~~ss. 50.32 to 50.39 or the rules and standards adopted by the department the~~

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1 requirements for hospitals after giving a reasonable notice, a fair hearing, and a  
2 reasonable opportunity to comply. Failure by a hospital to comply with s. 50.36 (3m)  
3 shall be considered to be a substantial failure to comply under this section.

4 **SECTION 4.** 50.36 (1) of the statutes is amended to read:

5 50.36 (1) The department may use and enforce the conditions in 42 CFR 482.60  
6 as standards that apply to psychiatric hospitals, which are hospitals primarily  
7 engaged in providing psychiatric services for the diagnosis and treatment of persons  
8 who have mental illness. Beginning on July 1, 2016, except as otherwise provided  
9 under ss. 50.32 to 50.39, the department shall use and enforce the conditions for  
10 Medicare participation for hospitals as the minimum standards that apply to  
11 hospitals. The department shall interpret the conditions for Medicare participation  
12 for hospitals using guidelines adopted by the federal centers for medicare and  
13 medicaid services, unless the department determines that a different interpretation  
14 is reasonably necessary to protect public health and safety. The department shall  
15 may promulgate, adopt, amend, and enforce such additional rules and standards for  
16 hospitals for the construction, maintenance, and operation of the hospitals deemed  
17 that the department determines are necessary to provide safe and adequate care and  
18 treatment of the hospital patients in the hospitals and to protect the health and  
19 safety of the patients and employees; and nothing contained herein shall pertain to  
20 a person licensed to practice medicine and surgery or dentistry. The building codes  
21 and construction standards of the department of safety and professional services  
22 shall apply to all hospitals and the department may adopt additional construction  
23 codes and standards for hospitals, provided to the extent that they are not lower than  
24 the requirements of the department of safety and professional services incompatible  
25 with any building codes or construction standards required by the conditions for

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1 Medicare participation for hospitals. Except for the construction codes and  
2 standards of the department of safety and professional services and except as  
3 provided in s. 50.39 (3), the department shall be the sole agency to adopt and enforce  
4 rules and standards pertaining to hospitals.

5 **SECTION 5.** 50.36 (1m) of the statutes is created to read:

6 50.36 (1m) (a) Notwithstanding sub. (1) and except as provided pars. (b) and  
7 (c), all of the following apply:

8 1. Beginning on July 1, 2016, the department may not enforce any of the rules  
9 contained in s. DHS 124.40 or subch. II, III, or IV of ch. DHS 124, Wis. Adm. Code,  
10 in effect on the effective date of this subdivision .... [LRB inserts date].

11 2. The department shall, within the scope of the department's rule-making  
12 authority under sub. (1), promulgate rules to repeal and recreate ch. DHS 124, Wis.  
13 Adm. Code.

14 (b) Paragraph (a) 1. does not apply to s. DHS 124.24 (3), Wis. Adm. Code.

15 (c) Paragraph (a) does not apply beginning on the date that a permanent rule  
16 promulgated under ch. 227 that repeals and recreates ch. DHS 124, Wis. Adm. Code,  
17 takes effect as provided in s. 227.22.

18 **SECTION 6.** 50.36 (2) (a) of the statutes is amended to read:

19 50.36 (2) (a) ~~The Notwithstanding sub. (3L), the~~ department shall conduct plan  
20 reviews of all capital construction and remodeling projects of hospitals to ensure that  
21 the plans comply with any applicable building code requirements under ch. 101 and  
22 with any physical plant requirements under this chapter or under rules promulgated  
23 under this chapter.

24 **SECTION 7.** 50.36 (2) (b) of the statutes is amended to read:

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1           50.36 (2) (b) The department shall promulgate rules that establish a fee  
2 schedule for its services in conducting the plan reviews under par. (a). The schedule  
3 ~~established under these rules shall set fees for hospital plan reviews in amounts that~~  
4 ~~are less than the sum of the amounts required on September 30, 1995, for fees under~~  
5 ~~this subsection and for fees for examination of hospital plans under s. 101.19 (1) (a),~~  
6 ~~1993 stats.~~

7           **SECTION 8.** 50.36 (3) (am) of the statutes is created to read:

8           50.36 (3) (am) A hospital may grant any practitioner the opportunity to be a  
9 member of the hospital staff and obtain hospital staff privileges if the membership  
10 or privileges are not prohibited under sub. (1) and are consistent with the  
11 practitioner's scope of practice.

12           **SECTION 9.** 50.36 (3g) of the statutes is repealed.

13           **SECTION 10.** 50.36 (3L) of the statutes is created to read:

14           50.36 (3L) A hospital accredited by an approved national accrediting  
15 organization pursuant to 42 USC 1395bb (a) (1) is exempt from routine inspections  
16 and investigations to determine compliance with and is considered to be in  
17 compliance with the requirements for hospitals. The department may inspect an  
18 accredited hospital to investigate a complaint or comply with the request of the  
19 federal centers for medicare and medicaid services, including a request to validate  
20 the findings of the accrediting organization.

21           **SECTION 11.** 50.36 (3m) of the statutes is amended to read:

22           50.36 (3m) The department shall require a hospital that is accredited as a  
23 hospital by a private national accrediting organization pursuant to 42 USC 1395bb  
24 (a) (1) to submit to the department ~~a copy of the summary accreditation~~  
25 ~~recommendation and may require the hospital to submit to the department copies~~

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1 of all correspondence sent or received on or after August 30, 1989, including survey  
2 results, between the hospital and the accrediting organization. Accreditation  
3 letters, reports and related evidence of current accreditation. Any evidence of  
4 accreditation and other accreditation-related correspondence or other materials  
5 submitted by or on behalf of a hospital to the department, except those submitted by  
6 a county mental health complex under s. 51.08, under this subsection are not subject  
7 to inspection, copying, or receipt under s. 19.35 (1) and may not be released by the  
8 department.

9 **SECTION 12.** 50.36 (4) of the statutes is amended to read:

10 50.36 (4) The Except as provided in sub. (3L), the department shall make or  
11 cause to be made such inspections and investigation, as are reasonably deemed  
12 necessary to obtain compliance with the rules and standards requirements for  
13 hospitals. It shall afford an opportunity for representatives of the hospitals to  
14 consult with members of the staff of the department concerning compliance and  
15 noncompliance with rules and standards the requirements for hospitals. If the  
16 department takes enforcement action against a hospital for a violation of ~~ss. 50.32~~  
17 ~~to 50.39, or rules promulgated or standards adopted under ss. 50.32 to 50.39~~ the  
18 requirements for hospitals, and the department subsequently conducts an on-site  
19 inspection of the hospital to review the hospital's action to correct the violation, the  
20 department may, unless the hospital is operated by the state, impose a \$200  
21 inspection fee on the hospital.

22 **SECTION 13.** 50.36 (6m) (a) (intro.) of the statutes is amended to read:

23 50.36 (6m) (a) (intro.) The secretary or his or her designee may grant a variance  
24 to ~~a statute affecting hospitals or a rule~~ or a waiver from any of the department  
25 ~~affecting~~ requirements for hospitals if all of the following apply:

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1           **SECTION 14.** 50.36 (6m) (a) 1. of the statutes is repealed.

2           **SECTION 15.** 50.36 (6m) (a) 2. of the statutes is amended to read:

3           50.36 **(6m)** (a) 2. A hospital has requested the variance or waiver.

4           **SECTION 16.** 50.36 (6m) (a) 3. of the statutes is amended to read:

5           50.36 **(6m)** (a) 3. The secretary or his her designee determines that the variance  
6           or waiver is necessary to protect the public health, safety, or welfare or to support the  
7           efficient and economic operation of the hospital.

8           **SECTION 17.** 50.36 (6m) (b) of the statutes is amended to read:

9           50.36 **(6m)** (b) A variance or waiver granted under par. (a) ~~shall~~ may be for a  
10          stated term ~~not to exceed 90 days, except that. If a variance or waiver is for a stated~~  
11          term, the secretary or his her designee may extend the variance or waiver upon  
12          request by the hospital if he or she determines that an extension is necessary to  
13          protect the public health, safety, or welfare or to support the efficient and economic  
14          operation of the hospital.

15          **SECTION 18.** 50.37 (intro.) of the statutes is amended to read:

16          **50.37 Notification to accrediting organization.** (intro.) The department  
17          shall notify a ~~private~~ national accrediting organization that has accredited a hospital  
18          and the board of governors of the injured patients and families compensation fund  
19          under s. 619.04 (3) if the department has done any of the following:

20          **SECTION 19.** 50.37 (4) of the statutes is amended to read:

21          50.37 **(4)** Recommended to the federal health care financing administration  
22          centers for medicare and medicaid services that the hospital be decertified from the  
23          federal medicare program under 42 USC 1395 to 1395ccc or the federal medicaid  
24          program under 42 USC 1396 to 1396r-3 for failure to meet a condition of  
25          participation under the program.

