

1993 Assembly Bill 406

Date of enactment: **April 19, 1994**

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1993 WISCONSIN ACT 375

AN ACT *to repeal* 48.71 and 50.03 (8); *to renumber* 48.67 (1) and 48.67 (2); *to renumber and amend* 48.66, 48.67 (3), 48.715 (3), 50.03 (4) (a) 1 and 50.03 (4m); *to amend* 46.036 (4) (a), 48.02 (17), 48.22 (7), 48.48 (9), 48.48 (9m), 48.48 (10), 48.656, 48.657 (1) (intro.), 48.68 (title), 48.68 (1), 48.68 (3), 48.70 (1), 48.715 (title), 48.715 (1), 48.715 (2) (a), 48.715 (2) (b), 48.715 (2) (c), 48.715 (2) (d), 48.715 (2) (e), 48.715 (4) (intro.), 48.715 (4) (a), 48.715 (4) (c), 48.715 (5), 48.72, 48.76, 50.03 (4) (e), 50.03 (5) (title), 50.03 (5) (a), 50.03 (5) (c), 50.03 (5) (d) 1, 50.03 (5) (d) 2, 50.03 (5) (d) 3, 140.85 (2) (b) and 140.85 (2) (c); *to repeal and recreate* 48.69; and *to create* 48.66 (5), 48.715 (2) (f), 48.715 (2) (g), 48.715 (3) (a) 2 to 4, 48.715 (3) (b), 48.715 (3) (c), 48.715 (3) (d), 48.715 (4) (d), 48.715 (4m), 50.03 (4) (a) 1. b., 50.03 (4m) (b) and 50.03 (5g) of the statutes, **relating to:** penalties, sanctions and licensure for certain agencies and facilities licensed by the department of health and social services, granting rule-making authority and providing penalties.

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

SECTION 1. 46.036 (4) (a) of the statutes is amended to read:

46.036 (4) (a) Except as provided in this ~~subdivision~~ paragraph, maintain a uniform double entry accounting system and a management information system which are compatible with cost accounting and control systems prescribed by the department. The department shall establish a simplified double entry bookkeeping system for use by family-operated group homes. Each purchaser shall determine whether a family-operated group home from which it purchases services shall use the double entry accounting system or the simplified system and shall include this determination in the purchase of service contract. In this paragraph, "family-operated group home" means a group home licensed under s. 48.66 (1) for which the licensee is one or more individuals who operate not more than one group home.

SECTION 2. 48.02 (17) of the statutes is amended to read:

48.02 (17) "Shelter care facility" means a nonsecure place of temporary care and physical custody for children, licensed by the department under s. 48.66 (1).

SECTION 3. 48.22 (7) of the statutes is amended to read:

48.22 (7) No person may establish a shelter care facility without first obtaining a license under s. 48.66 (1).

SECTION 4. 48.48 (9) of the statutes is amended to read:

48.48 (9) To license foster homes as provided in s. 48.66 (1) for its own use or for the use of licensed child welfare agencies or, if requested to do so, for the use of county departments.

SECTION 5. 48.48 (9m) of the statutes is amended to read:

48.48 (9m) To license shelter care facilities as provided in s. 48.66 (1).

SECTION 6. 48.48 (10) of the statutes is amended to read:

48.48 (10) To license child welfare agencies and day care centers as provided in s. 48.66 (1).

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SECTION 7. 48.656 of the statutes is amended to read:

48.656 Parent's right to know. Every parent, guardian or legal custodian of a child who is receiving care and supervision, or of a child who is a prospective recipient of care and supervision, from a day care center licensed that holds a license under s. 48.65 (1) or ~~provisionally licensed~~ a probationary license under s. 48.69 and that provides care and supervision for 9 or more children has the right to know certain information about the day care center that would aid the parent, guardian or legal custodian is in assessing the quality of care and supervision provided by the day care center.

SECTION 8m. 48.657 (1) (intro.) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

48.657 (1) (intro.) The department shall provide each day care center licensed that holds a license under s. 48.65 (1) or ~~provisionally licensed~~ a probationary license under s. 48.69 and that provides care and supervision for 9 or more children with an annual report that includes the following information:

SECTION 9. 48.66 of the statutes is renumbered 48.66 (1) and amended to read:

48.66 (1) The department shall license and supervise child welfare agencies, as required by s. 48.60, group homes, as required by s. 48.625, shelter care facilities, as required by s. 48.48 and day care centers, as required by s. 48.65. The department may license foster homes, as provided by s. 48.62, and may license and supervise county departments in accordance with the procedures specified in this section and in ss. 48.67 to 48.74.

SECTION 10. 48.66 (5) of the statutes is created to read:

48.66 (5) Licenses issued by the department under sub. (1) may be for any term not to exceed 2 years from the date of issuance. No license is transferable.

SECTION 11. 48.67 (1) of the statutes is renumbered 48.67.

SECTION 12. 48.67 (2) of the statutes is renumbered 48.66 (2).

SECTION 13. 48.67 (3) of the statutes is renumbered 48.66 (3) and amended to read:

48.66 (3) The department shall prescribe the form and content of records to be kept and information to be reported by persons licensed by it.

(4) Child welfare agencies and group homes shall report upon application for renewal of licensure all formal complaints regarding their operation filed under s. 48.745 (2) and the disposition of each.

SECTION 14. 48.68 (title) of the statutes is amended to read:

48.68 (title) Investigation of applicant; issuing of license.

SECTION 15. 48.68 (1) of the statutes is amended to read:

48.68 (1) After receipt of an application for a license, the department shall investigate to determine if the appli-

cant meets ~~all~~ the minimum requirements for a license adopted by the department under s. 48.67. In determining whether to issue a license, the department may consider any action by the applicant, or by an employee of the applicant, that constitutes a substantial failure by the applicant or employee to protect and promote the health, safety and welfare of a child. Upon satisfactory completion of this investigation and payment of the fee required under s. 48.615 (1) (a) or (b), 48.625 (2) (a) or 48.65 (3) (a), the department shall issue a license shall be granted under s. 48.66 (1) or, if applicable, a probationary license under s. 48.69.

SECTION 16. 48.68 (3) of the statutes is amended to read:

48.68 (3) Within 10 working days after receipt of an application for initial licensure of a child welfare agency or group home, the department shall notify the city, town or village planning commission, or other appropriate city, town or village agency if there is no planning commission, of receipt of the application. The department shall request that the planning commission or agency send to the department, within 30 days, a description of any specific hazards which may affect the health and safety of the residents of the child welfare agency or group home. No license may be ~~granted~~ issued to a child welfare agency or group home until the 30-day period has expired or until the department receives the response of the planning commission or agency, whichever is sooner. ~~In granting~~ issuing a license the department shall give full consideration to such hazards determined by the planning commission or agency.

SECTION 17. 48.69 of the statutes is repealed and recreated to read:

48.69 Probationary licenses. If any child welfare agency, shelter care facility, group home or day care center that has not been previously issued a license under s. 48.66 (1) applies for a license, meets the minimum requirements for a license established under s. 48.67 and pays the applicable fee referred to in s. 48.68 (1), the department shall issue a probationary license to that child welfare agency, shelter care facility, group home or day care center. A probationary license is valid for up to 6 months after the date of issuance unless renewed under this section or suspended or revoked under s. 48.715. Before a probationary license expires, the department shall inspect the child welfare agency, shelter care facility, group home or day care center holding the probationary license and, if the child welfare agency, shelter care facility, group home or day care center meets the minimum requirements for a license established under s. 48.67, the department shall issue a license under s. 48.66 (1). A probationary license issued under this section may be renewed for one 6-month period.

SECTION 17m. 48.70 (1) of the statutes is amended to read:

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48.70 (1) GENERAL. Each license shall ~~bear~~ state the name of the person licensed, ~~describe the premises included and state under the license,~~ the maximum number of children who can be received and their age and sex ~~and such additional information and special conditions as the department may prescribe.~~

SECTION 18. 48.71 of the statutes is repealed.

SECTION 19. 48.715 (title) of the statutes is amended to read:

48.715 (title) Sanctions and penalties.

SECTION 20. 48.715 (1) of the statutes is amended to read:

48.715 (1) In this section, "licensee" means a person licensed who holds a license under s. 48.65 ~~or provisionally licensed as a day care center 48.66 (1) or a probationary license~~ under s. 48.69 ~~to operate a child welfare agency, shelter care facility, group home or day care center.~~

SECTION 21. 48.715 (2) (a) of the statutes is amended to read:

48.715 (2) (a) That a person stop operating a child welfare agency, shelter care facility, group home or day care center if the child welfare agency, shelter care facility, group home or day care center is without a license in violation of s. 48.65 ~~or without a provisional day care 48.66 (1) or a probationary license~~ under in violation of s. 48.69.

SECTION 22. 48.715 (2) (b) of the statutes is amended to read:

48.715 (2) (b) That a person who employs a person who has had a license under s. 48.65 ~~or a provisional 48.66 (1) or a probationary~~ license under s. 48.69 revoked within the previous 5 years terminate the employment of that person within 30 days after the date of the order. This paragraph includes employment of a person in any capacity, whether as an officer, director, agent or employee.

SECTION 23. 48.715 (2) (c) of the statutes is amended to read:

48.715 (2) (c) That a licensee stop violating any provision of licensure under s. 48.70 (1) or rules ~~relating to day care~~ promulgated by the department under s. 48.67.

SECTION 24. 48.715 (2) (d) of the statutes is amended to read:

48.715 (2) (d) That a licensee submit a plan of correction for violation of any provision of licensure under s. 48.70 (1) or rule promulgated by the department under s. 48.67 ~~relating to day care.~~

SECTION 25. 48.715 (2) (e) of the statutes is amended to read:

48.715 (2) (e) That a licensee implement and comply with a plan of correction provided by the department or previously submitted by the licensee and approved by the department.

SECTION 26. 48.715 (2) (f) of the statutes is created to read:

48.715 (2) (f) That a licensee close the intake of any new children until all violations of the provisions of licensure under s. 48.70 (1) and the rules promulgated by the department under s. 48.67 are corrected.

SECTION 27. 48.715 (2) (g) of the statutes is created to read:

48.715 (2) (g) That a licensee provide training for the licensee's staff members as specified by the department.

SECTION 28. 48.715 (3) of the statutes is renumbered 48.715 (3) (intro.) and amended to read:

48.715 (3) (intro.) The ~~If the department provides written notice of the grounds for a penalty, an explanation of the types of penalties that may be imposed under this subsection and an explanation of the process for appealing a penalty imposed under this subsection, the~~ department may impose a forfeiture any of the following penalties against a licensee or any other person who fails to comply with an order issued under sub. (2) by the time specified in the order. ~~The~~

(a) A daily forfeiture amount per violation shall be of not less than \$10 nor more than \$50. All of the following apply to a forfeiture under this paragraph:

1. Within these the limits specified in this paragraph, the department may, by rule, set daily forfeiture amounts and payment deadlines based on the size and type of facility or agency and the seriousness of the violation. As part of the order, the department may set daily forfeiture amounts that increase periodically within the statutory limits if there is continued failure to comply with an order issued under sub. (2).

SECTION 29. 48.715 (3) (a) 2. to 4. of the statutes are created to read:

48.715 (3) (a) 2. The department may directly assess a forfeiture imposed under this paragraph by specifying the amount of that forfeiture in the notice provided under this subsection.

3. A person against whom the department has assessed a forfeiture shall pay that forfeiture to the department within 10 days after receipt of notice of the assessment or, if that person contests that assessment under s. 48.72, within 10 days after receipt of the final decision after exhaustion of administrative review or, if that person petitions for judicial review under ch. 227, within 10 days after receipt of the final decision after exhaustion of judicial review. The department shall remit all forfeitures paid under this subdivision to the state treasurer for deposit in the school fund.

4. The attorney general may bring an action in the name of the state to collect any forfeiture imposed under this paragraph that has not been paid as provided in subd.

3. The only contestable issue in an action under this subdivision is whether or not the forfeiture has been paid.

SECTION 30. 48.715 (3) (b) of the statutes is created to read:

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48.715 (3) (b) Suspension of the licensee's license for not more than 2 weeks.

SECTION 32. 48.715 (3) (c) of the statutes is created to read:

48.715 (3) (c) Refusal to renew a license or a probationary license.

SECTION 33. 48.715 (3) (d) of the statutes is created to read:

48.715 (3) (d) Revocation of a license or a probationary license as provided in sub. (4).

SECTION 34. 48.715 (4) (intro.) of the statutes is amended to read:

48.715 (4) (intro.) If the department provides written notice of revocation and the grounds for revocation as provided in sub. (4m) and an explanation of the process for appealing a revocation under this subsection, the department may revoke a license issued under s. 48.65 or a provisional day care 48.66 (1) or a probationary license issued under s. 48.69 for any of the following reasons:

SECTION 35. 48.715 (4) (a) of the statutes is amended to read:

48.715 (4) (a) The department has imposed a ~~forfeiture~~ penalty on the licensee under sub. (3) and the licensee or a person under the supervision of the licensee either continues to violate or resumes violation of a rule promulgated under s. 48.67, a provision of licensure under s. 48.70 (1) or an order under this section forming any part of the basis for the ~~forfeiture~~ penalty.

SECTION 36. 48.715 (4) (c) of the statutes is amended to read:

48.715 (4) (c) The licensee or a person under the supervision of the licensee has committed an action or has created a condition relating to the operation or maintenance of the child welfare agency, shelter care facility, group home or day care center that directly threatens the health, safety or welfare of any child under the care of the licensee.

SECTION 37. 48.715 (4) (d) of the statutes is created to read:

48.715 (4) (d) The licensee or a person under the supervision of the licensee has violated, as determined by the department, a rule promulgated under s. 48.67, a provision of licensure under s. 48.70 (1) or an order under this section that is the same as or similar to a rule promulgated under s. 48.67, a provision of licensure under s. 48.70 (1) or an order under this section that the licensee or a person under the supervision of the licensee has violated previously.

SECTION 38. 48.715 (4m) of the statutes is created to read:

48.715 (4m) (a) For a revocation under sub. (4) (a) or (d), the department shall provide to the licensee written notice of the revocation and the grounds for revocation not less than 30 days before the date of the revocation. The revocation will take effect only if the violation on

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which the revocation is based remains substantially uncorrected at the end of the 30-day notice period.

(b) For revocations under sub. (4) (b) or (c), the department may revoke the license or probationary license immediately upon written notice to the licensee of the revocation and the grounds for revocation.

SECTION 39. 48.715 (5) of the statutes is amended to read:

48.715 (5) The department may deny a license under s. 48.65 48.66 (1) or a provisional probationary license under s. 48.69 to any person who has had a license under s. 48.65 48.66 (1) or a provisional probationary license under s. 48.69 revoked within the previous 5 years.

SECTION 40. 48.72 of the statutes is amended to read:

48.72 Appeal procedure. Any person aggrieved by the department's refusal or failure to issue or renew a license, ~~by its revocation of a license or by any~~ action taken ~~by the department~~ under s. 48.715 has the right to an administrative hearing provided for contested cases in ch. 227. To receive an administrative hearing under ch. 227, the aggrieved person shall send to the department a written request for a hearing under s. 227.44 within 10 days after the date of the department's refusal or failure to issue or renew a license, ~~revocation of a license or the~~ department's action taken under s. 48.715. The department shall hold an administrative hearing under s. 227.44 within 30 days after receipt of the request for the administrative hearing unless the aggrieved person consents to an extension of that time period. Judicial review of the department's decision may be had as provided in ch. 227.

SECTION 41. 48.76 of the statutes is amended to read:

48.76 Penalties. In addition to the sanctions and penalties provided in s. 48.715, any person who violates s. 48.60, 48.62, 48.625, 48.63 or 48.65 may be fined not more than \$500 or imprisoned for not more than one year in county jail or both.

SECTION 42. 50.03 (4) (a) 1. of the statutes is renumbered 50.03 (4) (a) 1. a. and amended to read:

50.03 (4) (a) 1. a. Except as provided in sub. (4m) (a), the department shall issue a license for a nursing home if it finds the applicant to be fit and qualified, and if it finds that the facility nursing home meets the requirements established by this subchapter ~~and, for a community-based residential facility, if the facility has paid the license fee under s. 140.85 (2) (a).~~ The department, or its designee, shall make such inspections and investigations as are necessary to determine the conditions existing in each case and shall file written reports. ~~The department may designate and use full-time city or county agencies as its agents in making the inspections and investigations, including such subsequent inspections and investigations as are deemed necessary or advisable. The department shall reimburse the city or county furnishing such service at the rate of \$25 per year per license issued in the municipality. Before renewing the license of any community-~~

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based residential facility, the department shall consider all formal complaints filed under sub. (2) (f) during the current license period and the disposition of each. The department shall promulgate rules defining "fit and qualified" for the purposes of this subdivision subd. 1. a.

SECTION 43. 50.03 (4) (a) 1. b. of the statutes is created to read:

50.03 **(4)** (a) 1. b. Except as provided in sub. (4m) (b), the department shall issue a license for a community-based residential facility if it finds the applicant to be fit and qualified, if it finds that the community-based residential facility meets the requirements established by this subchapter and if the community-based residential facility has paid the license fee under s. 140.85 (2) (a). In determining whether to issue a license for a community-based residential facility, the department may consider any action by the applicant or by an employee of the applicant that constitutes a substantial failure by the applicant or employee to protect and promote the health, safety or welfare of a resident. The department may deny licensure to or not renew licensure for any person who conducted, maintained, operated or permitted to be maintained or operated a community-based residential facility for which licensure was revoked. The department, or its designee, shall make such inspections and investigations as are necessary to determine the conditions existing in each case and shall file written reports. Before renewing the license of any community-based residential facility, the department shall consider all complaints filed under sub. (2) (f) during the current license period and the disposition of each. The department shall promulgate rules defining "fit and qualified" for the purposes of this subd. 1. b.

SECTION 44. 50.03 (4) (e) of the statutes is amended to read:

50.03 **(4)** (e) Each license shall be issued only for the premises and persons named in the application and shall not be transferable or assignable. The license shall be posted in a place readily visible to residents and visitors, such as the lobby or reception area of the facility. Any license granted shall state the maximum bed capacity allowed, the person to whom the license is granted, the date, the expiration date, the maximum level of care for which the facility is licensed as a condition of its licensure and such additional information and special limitations conditions as the department, ~~by rule~~, may prescribe.

SECTION 45. 50.03 (4m) of the statutes is renumbered 50.03 (4m) (a) and amended to read:

50.03 **(4m)** (a) If the applicant for licensure as a nursing home has not been previously licensed under this subchapter or if the facility nursing home is not in operation at the time application is made, the department shall issue a probationary license. A probationary license shall be valid for 12 months from the date of issuance unless sooner suspended or revoked under sub. (5). ~~Within 30~~

days prior Prior to the termination expiration of a probationary license, the department shall fully and completely inspect the facility nursing home and, if the facility nursing home meets the applicable requirements for licensure, shall issue a regular license under sub. (4) (a) 1. a. If the department finds that the facility nursing home does not meet the requirements for licensure, the department may not issue a regular license under sub. (4) (a) 1. a.

SECTION 46. 50.03 (4m) (b) of the statutes is created to read:

50.03 **(4m)** (b) If the applicant for licensure as a community-based residential facility has not been previously licensed under this subchapter or if the community-based residential facility is not in operation at the time application is made, the department shall issue a probationary license, except that the department may deny licensure to any person who conducted, maintained, operated or permitted to be maintained or operated a community-based residential facility for which licensure was revoked within 5 years before application is made. A probationary license shall be valid for up to 12 months from the date of issuance unless sooner suspended or revoked under sub. (5g). Prior to the expiration of a probationary license, the department shall inspect the community-based residential facility and, if the community-based residential facility meets the applicable requirements for licensure, shall issue a regular license under sub. (4) (a) 1. b. If the department finds that the community-based residential facility does not meet the requirements for licensure, the department may not issue a regular license under sub. (4) (a) 1. b.

SECTION 48. 50.03 (5) (title) of the statutes is amended to read:

50.03 **(5)** (title) NONRENEWAL AND REVOCATION OF NURSING HOME LICENSES.

SECTION 49. 50.03 (5) (a) of the statutes is amended to read:

50.03 **(5)** (a) *Power of department.* The department, after notice to the a nursing home applicant or licensee, may suspend, revoke or refuse to renew a license in any case in which the department finds that ~~there has been a substantial failure~~ the nursing home has substantially failed to comply with the applicable requirements of this subchapter and the rules promulgated under this subchapter. No state or federal funds passing through the state treasury may be paid to a ~~facility not having nursing home that does not have~~ facility not having nursing home a valid license issued under this section.

SECTION 50. 50.03 (5) (c) of the statutes is amended to read:

50.03 **(5)** (c) *Contest of nonrenewal or revocation.* If a facility nursing home desires to contest the nonrenewal or revocation of a license, the facility nursing home shall, within 10 days after receipt of notice under par. (b), notify the department in writing of its request for

a hearing under s. 227.44. The department shall hold the hearing within 30 days of receipt of such notice and shall send notice to the facility nursing home of the hearing as provided under s. 227.44 (2).

SECTION 51. 50.03 (5) (d) 1. of the statutes is amended to read:

50.03 (5) (d) 1. Subject to s. 227.51 (3), revocation under this subsection shall become effective on the date set by the department in the notice of revocation, or upon final action after hearing under ch. 227, or after court action if a stay is granted under sub. (11), whichever is later.

SECTION 52. 50.03 (5) (d) 2. of the statutes is amended to read:

50.03 (5) (d) 2. Subject to s. 227.51 (2), nonrenewal under this subsection shall become effective on the date of expiration of any existing license, or upon final action after hearing under ch. 227, or after court action if a stay is granted under sub. (11), whichever is later.

SECTION 53. 50.03 (5) (d) 3. of the statutes is amended to read:

50.03 (5) (d) 3. The department may extend the effective date of license revocation or expiration in any case in order to permit orderly removal and relocation of residents of the nursing home.

SECTION 54. 50.03 (5g) of the statutes is created to read:

50.03 (5g) SANCTIONS AND PENALTIES FOR COMMUNITY-BASED RESIDENTIAL FACILITIES. (a) In this subsection, “licensee” means a community-based residential facility that is licensed under sub. (4) or (4m) (b).

(b) If, based on an investigation made by the department, the department provides to a community-based residential facility written notice of the grounds for a sanction, an explanation of the types of sanctions that the department may impose under this subsection and an explanation of the process for appealing a sanction imposed under this subsection, the department may order any of the following sanctions:

1. That a person stop conducting, maintaining or operating the community-based residential facility if the community-based residential facility is without a valid license or probationary license in violation of sub. (1).

2. That, within 30 days after the date of the order, the community-based residential facility terminate the employment of any employed person who conducted, maintained, operated or permitted to be maintained or operated a community-based residential facility for which licensure was revoked before issuance of the department’s order. This subdivision includes employment of a person in any capacity, whether as an officer, director, agent or employee of the community-based residential facility.

3. That a licensee stop violating any provision of licensure applicable to a community-based residential facility under sub. (4) or (4m) or of rules relating to com-

munity-based residential facilities promulgated by the department under sub. (4) or (4m).

4. That a licensee submit a plan of correction for violation of any provision of licensure applicable to a community-based residential facility under sub. (4) or (4m) or of a rule relating to community-based residential facilities promulgated by the department under sub. (4) or (4m).

5. That a licensee implement and comply with a plan of correction previously submitted by the licensee and approved by the department.

6. That a licensee implement and comply with a plan of correction that is developed by the department.

7. That a licensee accept no additional residents until all violations are corrected.

8. That a licensee provide training in one or more specific areas for all of the licensee’s staff or for specific staff members.

(c) If the department provides to a community-based residential facility written notice of the grounds for a sanction or penalty, an explanation of the types of sanctions or penalties that the department may impose under this subsection and an explanation of the process for appealing a sanction or penalty imposed under this subsection, the department may impose any of the following against a licensee or other person who fails to comply with an order issued under par. (b) by the time specified in the order:

1. A daily forfeiture amount per violation of not less than \$10 nor more than \$1,000 for each violation, with each day of violation constituting a separate offense. All of the following apply to a forfeiture under this subdivision:

a. Within the limits specified in this subdivision, the department may, by rule, set daily forfeiture amounts and payment deadlines based on the size and type of community-based residential facility and the seriousness of the violation. As part of the order, the department may set daily forfeiture amounts that increase periodically within the statutory limits if there is continued failure to comply with an order issued under par. (b).

b. The department may directly assess a forfeiture imposed under this subdivision by specifying the amount of that forfeiture in the notice provided under this paragraph.

c. All forfeitures shall be paid to the department within 10 days after receipt of notice of assessment or, if the forfeiture is contested under par. (f), within 10 days after receipt of the final decision after exhaustion of administrative review, unless the final decision is appealed and the order is stayed by court order under s. 50.03 (11). The department shall remit all forfeitures paid under this subdivision to the state treasurer for deposit in the school fund.

d. The attorney general may bring an action in the name of the state to collect any forfeiture imposed under

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this subdivision if the forfeiture has not been paid following the exhaustion of all administrative and judicial reviews. The only issue to be contested in any such action shall be whether the forfeiture has been paid.

2. Suspension of licensure for the community-based residential facility for 14 days.

3. Refusal to renew licensure or revocation of licensure, as specified in pars. (d) to (g).

(d) Under the procedure specified in par. (e), the department may revoke or refuse to renew a license for a licensee for any of the following reasons:

1. The department has imposed a sanction or penalty on the licensee under par. (c) and the licensee continues to violate or resumes violation of a provision of licensure under sub. (4) or (4m), a rule promulgated under this subchapter or an order issued under par. (b) that forms any part of the basis for the penalty.

2. The licensee or a person under the supervision of the licensee has substantially violated a provision of licensure applicable to a community-based residential facility under sub. (4) or (4m), a rule relating to community-based residential facilities promulgated under this subchapter or an order issued under par. (b).

3. The licensee or a person under the supervision of the licensee has acted in relation to or has created a condition relating to the operation or maintenance of the community-based residential facility that directly threatens the health, safety or welfare of a resident of the community-based residential facility.

4. The licensee or a person under the supervision of the licensee has repeatedly violated the same or similar provisions of licensure under sub. (4) or (4m), rules promulgated under this subchapter or orders issued under par. (b).

(e) 1. The department may revoke or refuse to renew a license for a licensee for the reason specified in par. (d) 1. or 4. and may refuse to renew a license for a licensee for the reason specified in par. (d) 1., 2. or 3. if the department provides the licensee with written notice of revocation or nonrenewal, the grounds for the revocation or nonrenewal and an explanation of the process for appealing the revocation or nonrenewal, at least 30 days before the date of revocation or license expiration. The department may revoke or refuse to renew the license only if the violation remains substantially uncorrected on the date of revocation or license expiration.

2. The department may revoke a license for a licensee for the reason specified in par. (d) 2. or 3. immediately if the department provides the licensee with written notice of revocation, the grounds for the revocation and an explanation of the process for appealing the revocation.

3. The department may deny a license for a licensee whose license was revoked under this paragraph.

(f) If a community-based residential facility desires to contest the nonrenewal or revocation of a license or to contest the imposing of a sanction under this subsection,

the community-based residential facility shall, within 10 days after receipt of notice under par. (e), notify the department in writing of its request for a hearing under s. 227.44. The department shall hold the hearing within 30 days after receipt of such notice and shall send notice to the community-based residential facility of the hearing as provided under s. 227.44 (2).

(g) 1. Subject to s. 227.51 (3), revocation shall become effective on the date set by the department in the notice of revocation, or upon final action after hearing under ch. 227, or after court action if a stay is granted under sub. (11), whichever is later.

2. Subject to s. 227.51 (2), nonrenewal shall become effective on the date of expiration of any existing license, or upon final action after hearing under ch. 227, or after court action if a stay is granted under sub. (11), whichever is later.

3. The department may extend the effective date of license revocation or expiration in any case in order to permit orderly removal and relocation of residents.

SECTION 55. 50.03 (8) of the statutes is repealed.

SECTION 56. 140.85 (2) (b) of the statutes is amended to read:

140.85 (2) (b) Such fees shall be paid to the department by the community-based residential facility before the department may issue a license under s. 50.03 (4) (a) 1. b. A community-based residential facility that wishes to renew a license issued under s. 50.03 (4) (a) 1. b. shall pay the fee under par. (a) by the renewal date of the license. A new community-based residential facility shall pay the fee under this subsection no later than 30 days before the opening of the facility.

SECTION 57. 140.85 (2) (c) of the statutes is amended to read:

140.85 (2) (c) A community-based residential facility that wishes to renew a license issued under s. 50.03 (4) (a) 1. b. and that fails to submit the annual fee prior to the renewal date of the license, or a new community-based residential facility subject to this section that fails to submit the annual fee by 30 days prior to the opening of the new community-based residential facility, shall pay an additional fee of \$10 per day for every day after the deadline that the facility does not pay the fee.

SECTION 58. Nonstatutory provisions; health and social services. (1) **FORFEITURE ASSESSMENTS FOR COMMUNITY-BASED RESIDENTIAL FACILITIES.** All matters pending before the department of health and social services with respect to forfeitures imposed under section 50.03 (8) of the statutes on the effective date of this subsection shall be completed under section 50.03 (8), 1991 stats.

SECTION 59. Initial applicability; health and social services. (1) **PROBATIONARY LICENSES.** The treatment of section 48.69 of the statutes first applies to licenses under section 48.66 (1) of the statutes, as affected by this act, applied for on the effective date of this subsection.

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(2) SANCTIONS AND PENALTIES. The treatment of sections 48.715 (title), (1), (2) (a) to (g), (3), (4) (intro.), (a), (c) and (d), (4m) and (5), 48.72, 48.76 and 50.03 (4) (a) 1 and (e), (4m), (5) (title), (a), (c) and (d) 1. to 3., (5g) and (8) of the statutes and the creation of sections 48.715 (3)

(a) 2. to 4. and (b) to (d) and 50.03 (4) (a) 1. b. and (4m) (b) of the statutes first apply to proceedings under section 48.715 of the statutes, as affected by this act, or under section 50.03 (5g) of the statutes, as created by this act, commenced on the effective date of this subsection.
