

State of Wisconsin



1997 Senate Bill 153

Date of enactment: **August 21, 1997**
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1997 WISCONSIN ACT 13

AN ACT to amend 46.27 (11) (c) 7., 46.277 (5) (e), 49.45 (2) (a) 23., 50.01 (1d), 50.034 (1) (a) and (b), 50.034 (2) (intro.) and (b) to (e), 50.034 (3) (intro.), (a) (intro.), 3., (b) and (d), 50.034 (4) to (7) and 150.31 (5r); and to **repeal and recreate** 50.01 (1g) (f) and (3) (e) and 50.034 (title) of the statutes; **relating to**: changing the term "assisted living facility" to "residential care apartment complex" and defining the term "stove" for the purposes of residential care apartment complexes.

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

SECTION 1. 46.27 (11) (c) 7. of the statutes is amended to read:

46.27 (11) (c) 7. A county may use funds received under this subsection to provide supportive, personal or nursing services, as defined in rules promulgated under s. 49.45 (2) (a) 23., to a person who resides in a certified ~~assisted living facility~~ residential care apartment complex, as defined in s. 50.01 (1d). Funding of the services may not exceed 85% of the statewide medical assistance daily cost of nursing home care, as determined by the department.

SECTION 2. 46.277 (5) (e) of the statutes is amended to read:

46.277 (5) (e) A county may use funds received under this subsection to provide supportive, personal or nursing services, as defined in rules promulgated under s. 49.45 (2) (a) 23., to a person who resides in a certified ~~assisted living facility~~ residential care apartment complex, as defined in s. 50.01 (1d). Funding of the services may not exceed 85% of the statewide medical assistance daily cost of nursing home care, as determined by the department.

SECTION 3. 49.45 (2) (a) 23. of the statutes is amended to read:

49.45 (2) (a) 23. Promulgate rules that define "supportive services", "personal services" and "nursing services" provided in a certified ~~assisted living facility~~ residential care apartment complex, as defined under s. 50.01 (1d), for purposes of reimbursement under ss. 46.27 (11) (c) 7. and 46.277 (5) (e).

SECTION 4. 50.01 (1d) of the statutes is amended to read:

50.01 (1d) "~~Assisted living facility~~ Residential care apartment complex" means a place where 5 or more adults reside that consists of independent apartments, each of which has an individual lockable entrance and exit, a kitchen, including a stove, and individual bathroom, sleeping and living areas, and that provides, to a person who resides in the place, not more than 28 hours per week of services that are supportive, personal and nursing services. "~~Assisted living facility~~ Residential care apartment complex" does not include a nursing home or a community-based residential facility, but may be physically part of a structure that is a nursing home or community-based residential facility. In this subsection, "stove" means a cooking appliance that is a microwave

* Section 991.11, WISCONSIN STATUTES 1995-96: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

oven of at least 1,000 watts or that consists of burners and an oven.

SECTION 5. 50.01 (1g) (f) and (3) (e) of the statutes are repealed and recreated to read:

50.01 (1g) (f) A residential care apartment complex.

(3) (e) A residential care apartment complex.

SECTION 6. 50.034 (title) of the statutes is repealed and recreated to read:

50.034 (title) Residential care apartment complexes.

SECTION 7. 50.034 (1) (a) and (b) of the statutes are amended to read:

50.034 (1) (a) No person may operate ~~an assisted living facility~~ a residential care apartment complex that provides living space for residents who are clients under s. 46.27 (11) or 46.277 and publicly funded services as a home health agency or under contract with a county department under s. 46.215, 46.22, 46.23, 51.42 or 51.437 that is a home health agency unless the ~~assisted living facility~~ residential care apartment complex is certified by the department under this section. The department may charge a fee, in an amount determined by the department, for certification under this paragraph. The amount of any fee charged by the department for certification of ~~an assisted living facility~~ a residential care apartment complex need not be promulgated as a rule under ch. 227.

(b) No person may operate ~~an assisted living facility~~ a residential care apartment complex that is not certified as required under par. (a) unless the ~~assisted living facility~~ residential care apartment complex is registered by the department.

SECTION 8. 50.034 (2) (intro.) and (b) to (e) of the statutes are amended to read:

50.034 (2) **RULES.** (intro.) The department shall promulgate all of the following rules for the regulation of certified ~~assisted living facilities~~ residential care apartment complexes and for the registration of ~~assisted living facilities~~ residential care apartment complexes under this section:

(b) Establishing standards for operation of certified ~~assisted living facilities~~ residential care apartment complexes.

(c) Establishing minimum information requirements for registration and registration application procedures and forms for ~~assisted living facilities~~ residential care apartment complexes that are not certified.

(d) Establishing procedures for monitoring certified ~~assisted living facilities~~ residential care apartment complexes.

(e) Establishing intermediate sanctions and penalties for and standards and procedures for imposing intermediate sanctions or penalties on certified ~~assisted living facilities~~ residential care apartment complexes and for appeals of intermediate sanctions or penalties.

SECTION 9. 50.034 (3) (intro.), (a) (intro.), 3., (b) and (d) of the statutes are amended to read:

50.034 (3) **REQUIREMENTS FOR OPERATION.** (intro.) A certified or registered ~~assisted living facility~~ residential care apartment complex shall do all of the following:

(a) (intro.) Establish, with each resident of the ~~assisted living facility~~ residential care apartment complex, a mutually agreed-upon written service agreement that identifies the services to be provided to the resident, based on a comprehensive assessment of the resident's needs and preferences that is conducted by one of the following:

3. For residents who have private or 3rd-party funding, by the ~~assisted living facility~~ residential care apartment complex.

(b) Establish a schedule of fees for services to residents of the ~~assisted living facility~~ residential care apartment complex.

(d) Establish, with each resident of the ~~assisted living facility~~ residential care apartment complex, a signed, negotiated risk agreement that identifies situations that could put the resident at risk and for which the resident understands and accepts responsibility.

SECTION 10. 50.034 (4) to (7) of the statutes are amended to read:

50.034 (4) **LIMITATION.** A nursing home or a community-based residential facility may not convert a separate area of its total area to ~~an assisted living facility~~ a residential care apartment complex unless the department first approves the conversion. A nursing home, other than the nursing home operated at the Wisconsin Veterans Home at King, that intends to convert a separate area of its total area to ~~an assisted living facility~~ a residential care apartment complex shall also agree to reduce its licensed nursing home beds by the corresponding number of ~~assisted living facility~~ residential care apartment complex residential units proposed for the conversion.

(5) **USE OF NAME PROHIBITED.** An entity that does not meet the definition under s. 50.01 (1d) may not designate itself as an ~~“assisted living facility”~~ a “residential care apartment complex” or use the word ~~“assisted living facility”~~ words “residential care apartment complex” to represent or tend to represent the entity as ~~an assisted living facility~~ a residential care apartment complex or services provided by the entity as services provided by ~~an assisted living facility~~ a residential care apartment complex.

(6) **FUNDING.** Funding for supportive, personal or nursing services that a person who resides in ~~an assisted living facility~~ a residential care apartment complex receives, other than private or 3rd-party funding, may be provided only under s. 46.27 (11) (c) 7. or 46.277 (5) (e), unless the provider of the services is a certified medical assistance provider under s. 49.45.

(7) **REVOCAION OF CERTIFICATION.** Certification for ~~an assisted living facility~~ a residential care apartment complex may be revoked because of the substantial and intentional violation of this section or of rules promul-

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gated by the department under sub. (2) or because of failure to meet the minimum requirements for certification. The operator of the certified ~~assisted living facility~~ residential care apartment complex shall be given written notice of any revocation of certification and the grounds for the revocation. Any ~~assisted living facility~~ residential care apartment complex certification applicant or operator of a certified ~~assisted living facility~~ residential care apartment complex may, if aggrieved by the failure to issue or renew the certification or by revocation of certifi-

cation, appeal under the procedures specified by the department by rule under sub. (2).

SECTION 11. 150.31 (5r) of the statutes is amended to read:

150.31 (**5r**) The department shall decrease the statewide bed limit specified in sub. (1) by the number of any beds that a nursing home shall agree to reduce in order to convert a separate area of its total area to ~~an assisted living facility~~ a residential care apartment complex under s. 50.034 (4) (~~b~~).
