



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1997 ASSEMBLY BILL 479**

February 19, 1998 – Offered by Representative KRUSICK.

1 **AN ACT to amend** 50.04 (5) (a) 1., 2. and 3. (intro.) and 50.04 (5) (a) 6.; **to repeal**
2 **and recreate** 50.04 (5) (a) 5.; and **to create** 50.04 (4) (d), 50.04 (5) (fm) and
3 456.10 (1) (d) of the statutes; **relating to:** violations of statutes and rules by
4 nursing homes and providing a penalty.

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

5 **SECTION 1.** 50.04 (4) (d) of the statutes is created to read:

6 50.04 (4) (d) *Suspension of admissions.* 1. The department shall suspend new
7 admissions to a nursing home if all of the following apply:

8 a. The nursing home received notices of violation for a class “A” violation or 3
9 or more class “B” violations in the previous 12 months.

10 b. The nursing home received notices of violation for a class “A” violation or 3
11 or more class “B” violations in any 12-month period during the 3 years immediately
12 preceding the period specified in subd. 1. a.

1 2. A suspension of admissions under subd. 1. shall begin 90 days after a nursing
2 home received its last notice of violation for a class "A" or class "B" violation or at the
3 time of a return visit by the department to the nursing home during which the
4 department determines that there is an uncorrected class "A" or class "B" violation,
5 whichever occurs first. A suspension of admissions under subd. 1. shall remain in
6 effect until the department determines that all class "A" and class "B" violations by
7 the nursing home have been corrected. Admission of a new resident during the
8 period for which admissions have been suspended constitutes a class "B" violation.

9 3. In determining whether subd. 1. applies, the department may not consider
10 a notice of violation found to be unjustified after hearing.

11 4. If the department suspends new admissions to a nursing home under this
12 paragraph, the department shall publish a class 1 notice under ch. 985 in a
13 newspaper likely to give notice in the area where the nursing home is located.

14 **SECTION 2.** 50.04 (5) (a) 1., 2. and 3. (intro.) of the statutes are amended to read:

15 50.04 (5) (a) 1. A class "A" violation may be is subject to a forfeiture of not less
16 than \$5,000, except as provided in par. (fm), nor more than \$5,000 \$10,000 for each
17 violation.

18 2. A class "B" violation may be subject to a forfeiture of not more than \$1,000
19 \$5,000 for each violation.

20 3. (intro.) A class "C" violation may be subject to a forfeiture of not more than
21 \$100 \$500. No forfeiture may be assessed for a class "C" violation unless at least one
22 of the following applies:

23 **SECTION 3.** 50.04 (5) (a) 5. of the statutes is repealed and recreated to read:

24 50.04 (5) (a) 5. a. A nursing home that violates a statute or rule resulting in a
25 class "A" violation and that has received a notice of violation for a class "A" or class

1 “B” violation within the previous 3-year period shall be subject to a forfeiture 3 times
2 the amount authorized for a class “A” violation.

3 b. A nursing home that violates a statute or rule resulting in a class “B”
4 violation and that has received a notice of violation for a class “A” violation within
5 the previous 3-year period shall be subject to a forfeiture 3 times the amount
6 authorized for a class “B” violation.

7 c. A nursing home that violates a statute or rule resulting in a class “B”
8 violation and that has received a notice of violation for a class “B” violation of the
9 same statute or rule within the previous 3-year period shall be subject to a forfeiture
10 3 times the amount authorized for a class “B” violation.

11 d. A nursing home that violates a statute or rule resulting in a class “B”
12 violation and that has received a notice of violation for a class “B” violation of a
13 different statute or rule within the previous 3-year period may be subject to a
14 forfeiture 3 times the amount authorized for a class “B” violation.

15 e. A notice of violation found to be unjustified after hearing may not be
16 considered in applying this subdivision.

17 f. The forfeiture amount that is tripled under this subdivision shall be the
18 amount assessed after all appeals have been exhausted. If an assessment of
19 forfeiture is not contested and the forfeiture is paid as provided in par. (fm), the
20 forfeiture amount that is tripled is the amount assessed after the reduction specified
21 in par. (fm).

22 **SECTION 4.** 50.04 (5) (a) 6. of the statutes is amended to read:

23 50.04 (5) (a) 6. If a licensee fails to correct a violation within the time specified
24 in the notice of violation or approved plan of correction, or within the extended
25 correction time granted under sub. (4) (c) 4., or if a violation continues after a report

1 of correction, ~~a separate forfeiture may be assessed~~ the department shall assess upon
2 the licensee ~~in an amount not to exceed a separate forfeiture of not less than \$5,000~~
3 nor more than \$10,000 for class "A" violations, and may assess a separate forfeiture
4 of not more than \$5,000 for class "B" violations, for each day of continuing violation,
5 ~~\$5,000 for class "A" violations and \$1,000 for class "B" violations.~~

6 **SECTION 5.** 50.04 (5) (fm) of the statutes is created to read:

7 50.04 (5) (fm) *Forfeiture reduction for timely payment.* If a nursing home does
8 not contest a notice of violation under sub. (4) (e) and does not contest an assessment
9 of forfeiture under par. (e) for a class "A" or class "B" violation and pays the forfeiture
10 to the department within 10 days after receipt of the notice of assessment, the
11 department shall reduce the amount of the assessment by 35%.

12 **SECTION 6.** 456.10 (1) (d) of the statutes is created to read:

13 456.10 (1) (d) Proof is submitted that while the licensee was the administrator
14 of a nursing home, that nursing home engaged in conduct that constituted a pattern
15 of serious violations of federal or state statutes, rules or regulations.

16 **SECTION 7. Initial applicability.**

17 (1) The treatment of sections 50.04 (4) (d) and (5) (a) 1., 2., 3. (intro.) and 6. and
18 (fm) and 456.10 (1) (d) of the statutes first applies to a violation that occurs on the
19 effective date of this subsection.

20 (2) The treatment of section 50.04 (5) (a) 5. of the statutes first applies to a
21 repeat violation that occurs on the effective date of this section. In determining
22 whether a violation is a repeat violation, the department of health and family
23 services may not consider violations that occurred more than 2 years before the
24 effective date of this subsection.

25 (END)