

State of Misconsin 2007 - 2008 LEGISLATURE

2007 ASSEMBLY BILL 493

- August 28, 2007 Introduced by Representatives KRUSICK, HINES, BENEDICT, BERCEAU, BLACK, FIELDS, A. OTT, J. OTT, SHERIDAN and YOUNG, cosponsored by Senators DARLING, COGGS, ERPENBACH, LASSA, LEHMAN and WIRCH, by request of Wisconsin Alzheimer's Association Chapter Network, AARP-Wisconsin, Brain Injury Association of Wisconsin, Coalition of Wisconsin Aging Groups, Community Alliance of Providers of Wisconsin, Disability Rights Wisconsin, Independence First, Learning Disabilities Association of Wisconsin, Steinhauer Group, LLC, Wisconsin Board on Aging and Long-Term Care, Wisconsin Council on Developmental Disabilities, and Wisconsin Coalition of Independent Living Centers, Inc.. Referred to Committee on Aging and Long Term Care.
- AN ACT to renumber and amend 50.033 (6) and 50.98 (1); to amend 50.034 (8) (a) and 50.035 (11) (a); and to create 50.02 (6), 50.033 (2p), 50.033 (6) (b), 50.034 (3m), 50.035 (10m), 50.04 (2x), 50.935 and 50.98 (1) (b) of the statutes; relating to: the care and treatment of persons with Alzheimer's disease or related dementia in residential care facilities, providing an exemption from emergency rule procedures, and requiring the exercise of rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Health and Family Services (DHFS) licenses or certifies various types of residential care facilities. This bill requires DHFS to establish standards of care and treatment for people with Alzheimer's disease or related dementia. The bill prohibits nursing homes, community-based residential facilities, adult family homes, residential care apartment complexes, and hospices from holding themselves out as providing special services for persons with Alzheimer's disease or related dementia unless DHFS determines that the facility satisfies the standards of care and treatment for people with Alzheimer's disease or related dementia unless DHFS determines that the facility satisfies the standards of care and treatment for people with Alzheimer's disease or related dementia.

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

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

| 1 | SECTION 1. 50.02 (6) of the statutes is created to read: |
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| 2 | 50.02 (6) Standards for care of persons with Alzheimer's disease. (a) The |
| 3 | department shall promulgate rules establishing standards for the care and |
| 4 | treatment of persons who have Alzheimer's disease or related dementia that an adult |
| 5 | family home under s. 50.01 (1) (b), residential care apartment complex, |
| 6 | community-based residential facility, nursing home, or hospice, as defined in s. |
| 7 | 50.90 (1), must satisfy to hold itself out as providing special services for persons with |
| 8 | Alzheimer's disease or related dementia. |
| 9 | (b) The department shall consult with all of the following before promulgating |
| 10 | the rules required under par. (a): |
| 11 | 1. The recipients of grants awarded under s. 46.856. |
| 12 | 2. Representatives of adult family homes under s. $50.01(1)(b)$, residential care |
| 13 | apartment complexes, community-based residential facilities, nursing homes, and |
| 14 | hospices. |
| 15 | 3. Residents of adult family homes under s. 50.01 (1) (b), residential care |
| 16 | apartment complexes, community-based residential facilities, nursing homes, and |
| 17 | hospices. |
| 18 | 4. Advocates for persons under subd. 3. |
| 19 | SECTION 2. 50.033 (2p) of the statutes is created to read: |
| 20 | 50.033 (2p) Services for persons with Alzheimer's disease. An adult family |
| 21 | home may not hold itself out as providing special services for persons with |
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| 1 | Alzheimer's disease or related dementia unless the agency that licenses the adult |
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| 2 | family home under this section determines that the adult family homes satisfies the |
| 3 | standards promulgated by rule under s. 50.02 (6). |
| 4 | SECTION 3. 50.033 (6) of the statutes is renumbered 50.033 (6) (a) and amended |
| 5 | to read: |
| 6 | 50.033 (6) (a) Any Except as provided under par. (b), any person who violates |
| 7 | this section or rules promulgated under s. 50.02 (2) (am) 2. may be fined not more |
| 8 | than \$500 or imprisoned for not more than one year in the county jail or both. |
| 9 | SECTION 4. 50.033 (6) (b) of the statutes is created to read: |
| 10 | 50.033 (6) (b) Any person who violates sub. (2p) may be required to forfeit not |
| 11 | more than \$500. |
| 12 | SECTION 5. 50.034 (3m) of the statutes is created to read: |
| 13 | 50.034 (3m) Services for persons with Alzheimer's disease. A residential care |
| 14 | apartment complex may not hold itself out as providing special services for persons |
| 15 | with Alzheimer's disease or related dementia unless the department determines |
| 16 | that the residential care apartment complex satisfies the standards promulgated by |
| 17 | rule under s. 50.02 (6). |
| 18 | SECTION 6. 50.034 (8) (a) of the statutes is amended to read: |
| 19 | 50.034 (8) (a) Whoever violates sub. $(3m)$, $(5m)$ or $(5n)$ or rules promulgated |
| 20 | under sub. (5m) or (5n) may be required to forfeit not more than \$500 for each |
| 21 | violation. |
| 22 | SECTION 7. 50.035 (10m) of the statutes is created to read: |
| 23 | 50.035 (10m) Services for persons with Alzheimer's disease. A |
| 24 | community-based residential facility may not hold itself out as providing special |
| 25 | services for persons with Alzheimer's disease or related dementia unless the |

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| 1 | department determines that the community-based residential facility satisfies the |
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| 2 | standards promulgated by rule under s. 50.02 (6). |
| 3 | SECTION 8. 50.035 (11) (a) of the statutes is amended to read: |
| 4 | 50.035 (11) (a) Whoever violates sub. $(4m) \text{ or, } (4n), \text{ or } (10m)$ or rules |
| 5 | promulgated under sub. (4m) or (4n) may be required to forfeit not more than \$500 |
| 6 | for each violation. |
| 7 | SECTION 9. 50.04 $(2x)$ of the statutes is created to read: |
| 8 | 50.04 (2x) Services for persons with Alzheimer's disease. (a) A nursing home |
| 9 | may not hold itself out as providing special services for persons with Alzheimer's |
| 10 | disease or related dementia unless the department determines that the nursing |
| 11 | home satisfies the standards promulgated by rule under s. 50.02 (6). |
| 12 | (b) A violation of par. (a) is a class "C" violation under sub. (4) (b) 3. |
| 13 | SECTION 10. 50.935 of the statutes is created to read: |
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| 14 | 50.935 Hospice care for persons with Alzheimer's disease. A hospice |
| $14\\15$ | 50.935 Hospice care for persons with Alzheimer's disease. A hospice may not hold itself out as providing special services for persons with Alzheimer's |
| | |
| 15 | may not hold itself out as providing special services for persons with Alzheimer's |
| 15 16 | may not hold itself out as providing special services for persons with Alzheimer's disease or related dementia unless the department determines that the hospice |
| 15 16 17 | may not hold itself out as providing special services for persons with Alzheimer's disease or related dementia unless the department determines that the hospice satisfies the standards promulgated by rule under s. 50.02 (6). |
| 15 16 17 18 | may not hold itself out as providing special services for persons with Alzheimer's disease or related dementia unless the department determines that the hospice satisfies the standards promulgated by rule under s. 50.02 (6). SECTION 11. 50.98 (1) of the statutes is renumbered 50.98 (1) (a) and amended |
| 15 16 17 18 19 | may not hold itself out as providing special services for persons with Alzheimer's disease or related dementia unless the department determines that the hospice satisfies the standards promulgated by rule under s. 50.02 (6). SECTION 11. 50.98 (1) of the statutes is renumbered 50.98 (1) (a) and amended to read: |
| 15 16 17 18 19 20 | may not hold itself out as providing special services for persons with Alzheimer's disease or related dementia unless the department determines that the hospice satisfies the standards promulgated by rule under s. 50.02 (6). SECTION 11. 50.98 (1) of the statutes is renumbered 50.98 (1) (a) and amended to read: 50.98 (1) (a) Any Except as provided under par. (b), any person who violates this |
| 15 16 17 18 19 20 21 | may not hold itself out as providing special services for persons with Alzheimer's disease or related dementia unless the department determines that the hospice satisfies the standards promulgated by rule under s. 50.02 (6). SECTION 11. 50.98 (1) of the statutes is renumbered 50.98 (1) (a) and amended to read: 50.98 (1) (a) Any Except as provided under par. (b), any person who violates this subchapter or rules promulgated under this subchapter may be required to forfeit |
| 15 16 17 18 19 20 21 22 | may not hold itself out as providing special services for persons with Alzheimer's disease or related dementia unless the department determines that the hospice satisfies the standards promulgated by rule under s. 50.02 (6). SECTION 11. 50.98 (1) of the statutes is renumbered 50.98 (1) (a) and amended to read: 50.98 (1) (a) Any Except as provided under par. (b), any person who violates this subchapter or rules promulgated under this subchapter may be required to forfeit not more than \$100 for the first violation and may be required to forfeit not more than |

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SECTION 12. 50.98 (1) (b) of the statutes is created to read: 1 2 50.98 (1) (b) Any person who violates s. 50.935 may be required to forfeit not 3 more than \$500. 4 SECTION 13. Nonstatutory provisions. 5 (1) RULE MAKING. (a) The department of health and family services shall submit 6 in proposed form the rules required under section 50.02 (6) of the statutes, as created 7 by this act, to the legislative council staff under section 227.15 (1) of the statutes no 8 later than the first day of the 7th month beginning after the effective date of this 9 subsection. 10 (b) Using the procedure under section 227.24 of the statutes, the department 11 of health and family services may promulgate rules required under section 50.02 (6) 12of the statutes, as created by this act, for the period before the effective date of the 13rules submitted under paragraph (a), but not to exceed the period authorized under 14 section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), 15(2) (b), and (3) of the statutes, the department is not required to provide evidence that 16 promulgating a rule under this paragraph as an emergency rule is necessary for the 17preservation of the public peace, health, safety, or welfare and is not required to 18 provide a finding of emergency for a rule promulgated under this paragraph. 19 **SECTION 14. Effective dates.** This act takes effect on the first day of the 7th 20month beginning after publication, except as follows: 21(1) The treatment of section 50.02 (6) of the statutes and SECTION 13 take effect 22on the day after publication.

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(END)