

State of Wisconsin



2007 Senate Bill 393

Date of enactment: **March 26, 2008**

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2007 WISCONSIN ACT 172

AN ACT *to repeal* 50.065 (1) (d) and 50.065 (1) (f); *to amend* 50.065 (1) (c) (intro.) and 50.065 (5); and *to create* 50.065 (1) (cr) and 50.065 (2m) of the statutes; **relating to**: personal care services and requiring the exercise of rule-making authority.

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

SECTION 1. 50.065 (1) (c) (intro.) of the statutes is amended to read:

50.065 (1) (c) (intro.) "Entity" means a facility, organization or service that is licensed or certified by or registered with the department to provide direct care or treatment services to clients; or an agency that employs or contracts with an individual to provide personal care services. "Entity" includes a hospital, ~~a personal care worker agency, a supportive home care service agency a home health agency licensed under s. 50.49,~~ a temporary employment agency that provides caregivers to another entity, and the board on aging and long-term care. "Entity" does not include any of the following:

SECTION 2. 50.065 (1) (cr) of the statutes is created to read:

50.065 (1) (cr) "Personal care services" means any of the following:

1. Assistance with any of the following activities of daily living:
 - a. Eating.
 - b. Bathing.
 - c. Grooming.
 - d. Dressing.
 - e. Transferring.

- f. Toileting.
2. Assistance with the following activities incidental to activities of daily living under subd. 1.:
 - a. Meal preparation.
 - b. Food purchasing.
 - c. Changing or laundering of a client's linens or clothing.
 - d. Routine care of vision or hearing aids.
 - e. Light cleaning in areas of the residence that are used during provision of services under subd. 1. or under this subd. 2. a. to d.

SECTION 3. 50.065 (1) (d) of the statutes is repealed.

SECTION 4. 50.065 (1) (f) of the statutes is repealed.

SECTION 5. 50.065 (2m) of the statutes is created to read:

50.065 (2m) (a) Any entity that places a caregiver in a client's residence to provide personal care services shall, before the caregiver provides services to the client, do all of the following:

1. Except as provided in par. (b), disclose to the client or the clients' guardian in writing all information obtained under sub. (2) (b) 1. or (bb) regarding any conviction of the caregiver for a crime that is specified by rule under par. (d), and, if the caregiver has demonstrated that he or she has been rehabilitated under sub. (5), notice of that fact.

* Section 991.11, WISCONSIN STATUTES 2005-06 : 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].

2. Except as provided in par. (b), disclose to the client or the client's guardian in writing all information obtained under sub. (2) (b) 2., 4., or 5. regarding the caregiver.

3. Notify the client or the client's guardian that, for a fee, the department of justice performs for any person a criminal history record search on an individual.

4. Notify the client or the client's guardian in writing that if the regularly assigned caregiver is unavailable and the entity assigns a substitute caregiver to provide personal care services to the client, the entity is not required to provide the disclosures under subd. 1. or 2. for the substitute caregiver.

(b) If a caregiver whom an entity has placed in a client's residence to provide personal care services is not available to provide the services and the entity assigns a substitute caregiver to provide personal care services to the client, the entity is not required to make the disclosures under par. (a) 1. and 2. for the substitute caregiver.

(c) Each time that an entity requests information under sub. (3) (b) regarding a caregiver who provides personal care services, the entity shall provide the disclosures required under par. (a) 1. and 2. to each client for whom the caregiver provides personal care services or to the client's guardian.

(d) The department shall promulgate rules to specify crimes for which an entity must disclose a conviction to a client or the client's guardian under par. (a) 1., and to specify who is a substitute caregiver for purposes of pars. (a) 4. and (b).

SECTION 6. 50.065 (5) of the statutes is amended to read:

50.065 (5) The department may license, certify, issue a certificate of approval to or register to operate an entity a person who otherwise may not be licensed, certified, issued a certificate of approval or registered for a reason specified in sub. (4m) (a) 1. to 5., and an entity may employ, contract with or permit to reside at the entity a person who otherwise may not be employed, contracted with or permitted to reside at the entity for a reason specified in sub. (4m) (b) 1. to 5., if the person demonstrates to the department, or, in the case of an entity that is located within the boundaries of a reservation, to the person or body designated by the tribe under sub. (5d) (a) 3., by clear and convincing evidence and in accordance with procedures established by the department by rule, or by the tribe, that he or she has been rehabilitated. The department shall permit any person who has been convicted of a crime specified by rule under sub. (2m) (d) and who wishes to provide personal care services to demonstrate to the department or, if the person wishes to provide personal care services only within the boundaries of a reservation and the department has approved a plan for the tribe to conduct rehabilitation reviews under sub. (5d), to the tribe that he or she has been rehabilitated.

SECTION 7. Initial applicability.

(1) The treatment of section 50.065 (2m) (a) and (b) of the statutes first applies to placements of caregivers that are made on the effective date of this subsection.

SECTION 8. Effective dates. This act takes effect on the first day of the 7th month beginning after publication, except as follows:

(1) The treatment of section 50.065 (2m) (d) takes effect on the day after publication.
