



## 1997 ASSEMBLY BILL 219

March 25, 1997 - Introduced by Representatives UNDERHEIM, KELSO, LADWIG, MUSSER, OLSEN, LORGE, OWENS, HAHN, HANDRICK, SPRINGER, GROTHMAN, KAUFERT, GUNDERSON, F. LASEE, HARSDORF, HANSON and WASSERMAN, cosponsored by Senators MOEN, BUETTNER, BRESKE, SCHULTZ and MOORE. Referred to Committee on Health.

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

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### ***Analysis by the Legislative Reference Bureau***

Under current law, the department of health and family services (DHFS) is authorized to certify as assisted living facilities places where 5 or more adults reside that are individual apartments and in which not more than 28 hours of supportive, personal and nursing services are provided to each adult each week. Each apartment in an assisted living facility must have an individual lockable entrance and exit, a kitchen, including a stove, and individual bathroom, sleeping and living areas. Each assisted living facility must meet certain requirements for certification by DHFS and must be certified to receive moneys under the long-term support community options program, the community integration program or other publicly funded services.

This bill changes the name of the facilities certified by DHFS as “assisted living facilities” to “residential care apartments”. The bill also defines the term “stove”, for the purposes of residential care apartments, to be a cooking appliance that is a microwave oven or that consists of burners and an oven.

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

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

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

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

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

9           46.277 (5) (e) A county may use funds received under this subsection to provide  
10 supportive, personal or nursing services, as defined in rules promulgated under s.  
11 49.45 (2) (a) 23., to a person who resides in a certified assisted living facility  
12 residential care apartments, as defined in s. 50.01 (1d). Funding of the services may  
13 not exceed 85% of the statewide medical assistance daily cost of nursing home care,  
14 as determined by the department.

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

16           49.45 (2) (a) 23. Promulgate rules that define “supportive services”, “personal  
17 services” and “nursing services” provided in a certified assisted living facility  
18 residential care apartments, as defined under s. 50.01 (1d), for purposes of  
19 reimbursement under ss. 46.27 (11) (c) 7. and 46.277 (5) (e).

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

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

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

13           50.01 (1g) (f) Residential care apartments.

14           (3) (e) Residential care apartments.

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

16           **50.034 (title) Residential care apartments.**

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

18           50.034 (1) (a) No person may operate ~~an assisted living facility~~ residential care  
19 apartments that ~~provides~~ provide living space for residents who are clients under s.  
20 46.27 (11) or 46.277 and publicly funded services as a home health agency or under  
21 contract with a county department under s. 46.215, 46.22, 46.23, 51.42 or 51.437 that  
22 is a home health agency unless the ~~assisted living facility~~ is residential care  
23 apartments are certified by the department under this section. The department may  
24 charge a fee, in an amount determined by the department, for certification under this  
25 paragraph. The amount of any fee charged by the department for certification of an

**ASSEMBLY BILL 219****SECTION 7**

1 ~~assisted living facility~~ residential care apartments need not be promulgated as a rule  
2 under ch. 227.

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

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

7 50.034 (2) RULES. (intro.) The department shall promulgate all of the following  
8 rules for the regulation of certified ~~assisted living facilities~~ residential care  
9 apartments and for the registration of ~~assisted living facilities~~ residential care  
10 apartments under this section:

11 (b) Establishing standards for operation of certified ~~assisted living facilities~~  
12 residential care apartments.

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

16 (d) Establishing procedures for monitoring certified ~~assisted living facilities~~  
17 residential care apartments.

18 (e) Establishing intermediate sanctions and penalties for and standards and  
19 procedures for imposing intermediate sanctions or penalties on certified ~~assisted~~  
20 ~~living facilities~~ residential care apartments and for appeals of intermediate  
21 sanctions or penalties.

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

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1           50.034 (3) REQUIREMENTS FOR OPERATION. (intro.) ~~A-certified~~ Certified or  
2 registered assisted-living facility residential care apartments shall do all of the  
3 following:

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

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

11           (b) Establish a schedule of fees for services to residents of the ~~assisted-living~~  
12 facility residential care apartments.

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

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

18           50.034 (4) LIMITATION. A nursing home or a community-based residential  
19 facility may not convert a separate area of its total area to ~~an-assisted-living facility~~  
20 residential care apartments unless the department first approves the conversion.

21 A nursing home, other than the nursing home operated at the Wisconsin Veterans  
22 Home at King, that intends to convert a separate area of its total area to ~~an-assisted~~  
23 living facility residential care apartments shall also agree to reduce its licensed  
24 nursing home beds by the corresponding number of ~~assisted-living facility~~ residential

**ASSEMBLY BILL 219****SECTION 10**

1 care apartments residential units proposed for the conversion words “residential  
2 care apartments”.

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

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

14 (7) REVOCATION OF CERTIFICATION. Certification for ~~an assisted living facility~~  
15 residential care apartments may be revoked because of the substantial and  
16 intentional violation of this section or of rules promulgated by the department under  
17 sub. (2) or because of failure to meet the minimum requirements for certification.  
18 The operator of the certified ~~assisted living facility~~ residential care apartments shall  
19 be given written notice of any revocation of certification and the grounds for the  
20 revocation. Any ~~assisted living facility~~ residential care apartments certification  
21 applicant or operator of a certified ~~assisted living facility~~ residential care apartments  
22 may, if aggrieved by the failure to issue or renew the certification or by revocation  
23 of certification, appeal under the procedures specified by the department by rule  
24 under sub. (2).

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

