



**ASSEMBLY SUBSTITUTE AMENDMENT 2,
TO 1997 ASSEMBLY BILL 432**

March 3, 1998 – Offered by Representatives WALKER and HUBER.

1 **AN ACT** *to renumber and amend* 48.68 (4) and 50.03 (4) (g); *to amend* 48.68
2 (3) and 50.03 (4) (a) 3.; and *to create* 48.68 (1r), 48.68 (3m), 48.68 (4) (b), 48.68
3 (5), 50.03 (1g), 50.03 (3) (cm), 50.03 (4) (a) 4., 50.03 (4) (g) 2. and 50.03 (4) (h)
4 of the statutes; **relating to:** licensing and community oversight of child welfare
5 agencies, group homes and community-based residential facilities and
6 granting rule-making authority.

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

7 **SECTION 1.** 48.68 (1r) of the statutes is created to read:
8 48.68 (1r) (a) An application for a license or for continuance of a license to
9 operate a child welfare agency or group home shall identify the client group to be
10 served. The department shall define “client group” by rule for purposes of this
11 section.

1 (b) A child welfare agency or group home may not provide care and
2 maintenance for a person who is not a member of the client group identified under
3 par. (a) unless the child welfare agency or group home complies with par. (c) or (d),
4 whichever is applicable.

5 (c) Except as provided in par. (d), a child welfare agency or group home may
6 change the client group served by the child welfare agency or group home without
7 the approval of the department.

8 (d) If the client group served consists primarily of persons who are not under
9 court-ordered supervision or aftercare supervision as a result of a violation of a
10 criminal law and the child welfare agency or group home proposes to change the
11 client group served to one that consists primarily of persons who are under
12 court-ordered supervision or aftercare supervision as a result of a violation of a
13 criminal law, the child welfare agency or group home may not change the client group
14 served by the child welfare agency or group home unless the child welfare agency or
15 group home submits to the department a written application for approval of the
16 change and obtains the department's approval of the change.

17 **SECTION 2.** 48.68 (3) of the statutes is amended to read:

18 48.68 (3) Within 10 working days after receipt of an application for initial
19 licensure of a child welfare agency or group home or within 10 working days after
20 receipt of an application under sub. (1r) (d) for approval of a change in the client
21 group served, the department shall notify the city, town or village planning
22 commission, or other appropriate city, town or village agency if there is no planning
23 commission, of receipt of the application. ~~The department~~ The notification shall
24 request state that the planning commission or agency may send to the department,
25 within ~~30~~ 45 days after the date of the notification, a description of any specific

1 hazards ~~which~~ that may affect the health and safety of the residents of the child
2 welfare agency or group home. No license may be issued and no approval under sub.
3 (1r) (d) of a change in the client group served may be granted to a child welfare agency
4 or group home until the ~~30-day~~ 45-day period has expired or until the department
5 receives the response of the planning commission or agency, whichever is sooner. In
6 issuing a license or granting approval under sub. (1r) (d) of a change in the client
7 group served, the department shall give full consideration to such hazards
8 determined by the planning commission or agency. Prior to issuing a license for a
9 child welfare agency or group home that will serve a client group consisting primarily
10 of persons who are under court-ordered supervision or aftercare supervision as a
11 result of a violation of a criminal law or granting approval under sub. (1r) (d) of a
12 change in the client group served, the department shall work with the applicant to
13 address each of the hazards described. If the department issues a license for a child
14 welfare agency or group home that will serve a client group consisting primarily of
15 persons who are under court-ordered supervision or aftercare supervision as a result
16 of a violation of a criminal law or approves under sub. (1r) (d) a change in the client
17 group served, the department shall respond in writing to the planning commission
18 or agency addressing each of the hazards described and stating why the license was
19 issued or approval granted despite the hazards.

20 **SECTION 3.** 48.68 (3m) of the statutes is created to read:

21 48.68 **(3m)** Within 10 working days after submitting an application for
22 approval by the department under sub. (1r) (d) of a change in the client group served,
23 the applicant shall notify the community advisory committee established under sub.
24 (4) (b) or, if there is no community advisory committee, shall establish one that
25 conforms to the requirements of sub. (4) (b).

1 **SECTION 4.** 48.68 (4) of the statutes is renumbered 48.68 (4) (a) and amended
2 to read:

3 48.68 **(4)** (a) Prior to initial licensure of a residential facility operated by a child
4 welfare agency or of a group home, other than a residential facility or group home
5 that will serve a client group consisting primarily of persons who are under
6 court-ordered supervision or aftercare supervision as a result of a violation of a
7 criminal law, the applicant for licensure shall make a good faith effort to establish
8 a community advisory committee consisting of representatives from the child
9 welfare agency or proposed group home, the neighborhood in which the proposed
10 residential facility or group home will be located and a local unit of government.

11 (c) The community advisory committee shall provide a forum for
12 communication for those persons interested in the proposed residential facility or
13 group home. Any committee established under this subsection shall continue in
14 existence after licensure to make recommendations to the licensee regarding the
15 impact of the residential facility or group home on the neighborhood. The
16 department shall determine compliance with this subsection both prior to and after
17 initial licensure.

18 **SECTION 5.** 48.68 (4) (b) of the statutes is created to read:

19 48.68 **(4)** (b) Prior to initial licensure of a residential facility operated by a child
20 welfare agency, or of a group home, that will serve a client group consisting primarily
21 of persons who are under court-ordered supervision or aftercare supervision as a
22 result of a violation of a criminal law, the applicant for licensure shall establish a
23 community advisory committee consisting of residents from the child welfare agency
24 or proposed group home appointed by the child welfare agency or group home
25 operator, representatives of the neighborhood in which the proposed residential

1 facility or group home will be located appointed, within 45 days after receipt of notice
2 under sub. (3), by the mayor or city manager, village president or town board
3 chairperson or his or her designee and representatives of the city, village or town
4 appointed, within 45 days after receipt of notice under sub. (3), by the mayor or city
5 manager, village president or town board chairperson or his or her designee. If the
6 mayor or city manager, village president or town board chairperson or his or her
7 designee fails to make any appointments under this paragraph within the 45-day
8 period, the child welfare agency or group home operator may appoint representatives
9 of the neighborhood and city, village or town and shall make a good faith effort to do
10 so. Unless the mayor or city manager, village president or town board chairperson
11 or his or her designee fails to make appointments under this paragraph and the child
12 welfare agency or group home operator is unable to make the appointments, a
13 majority of the members of a community advisory committee established under this
14 paragraph shall be representatives of the neighborhood, and representatives of the
15 city, village or town, in which the proposed residential facility or group home will be
16 located.

17 **SECTION 6.** 48.68 (5) of the statutes is created to read:

18 48.68 (5) (a) In the case of a child welfare agency or group home that will serve
19 a client group consisting primarily of persons who are under court-ordered
20 supervision or aftercare care supervision as a result of a violation of a criminal law,
21 if the city, town or village planning commission, or other appropriate city, town or
22 village agency if there is no planning commission, describes any specific hazards
23 under sub. (3), if the community advisory committee expresses any concerns
24 regarding the impact of the proposed child welfare agency or group home or proposed
25 change in the client group served on the neighborhood or if the department, following

1 its investigation under sub. (1), has any concerns regarding any specific hazards as
2 described in sub. (3) or regarding the impact of the proposed child welfare agency or
3 group home or proposed change in the client group served on the neighborhood, the
4 department may issue the license or approve the proposed change in the client group
5 served subject to any conditions that the department may impose to address those
6 specific hazards or concerns.

7 (b) After issuing a license or approving a change in the client group served, the
8 department may not change any condition imposed under par. (a) to make that
9 condition less stringent unless the department first provides to the city, town or
10 village planning commission, or other appropriate city, town or village agency if there
11 is no planning commission, notice of the proposed change and an explanation
12 showing that the proposed change would not endanger the health or safety of the
13 residents of the child welfare agency or group home.

14 **SECTION 7.** 50.03 (1g) of the statutes is created to read:

15 50.03 (1g) UNAUTHORIZED RESIDENTS. No person operating or maintaining a
16 community-based residential facility may permit any person who is not a member
17 of the client group identified under sub. (3) (cm) 1. to become a resident of the
18 community-based residential facility unless the person operating or maintaining
19 the community-based residential facility complies with sub. (3) (cm) 2. or 3.,
20 whichever is applicable.

21 **SECTION 8.** 50.03 (3) (cm) of the statutes is created to read:

22 50.03 (3) (cm) 1. An application for a license to operate a community-based
23 residential facility shall identify the client group to be served. The department shall
24 define “client group” by rule for purposes of this section.

1 2. Except as provided in in subd. 3., a community-based residential facility
2 may change the client group served without the approval of the department.

3 3. If the client group served consists primarily of persons who are not on
4 probation or parole and the community-based residential facility proposes to change
5 the client group served to one that consists primarily of persons who are on probation
6 or parole, the community-based residential facility may not change the client group
7 served by the community-based residential facility unless it submits to the
8 department a written application for approval of the change and obtains the
9 department's approval of the change.

10 **SECTION 9.** 50.03 (4) (a) 3. of the statutes is amended to read:

11 50.03 (4) (a) 3. Within 10 working days after receipt of an application for initial
12 licensure of a community-based residential facility or within 10 working days after
13 receipt of an application under sub. (3) (cm) 3. for approval of a change in the client
14 group served, the department shall notify the city, town or village planning
15 commission, or other appropriate city, town or village agency if there is no planning
16 commission, of receipt of the application. The ~~department~~ notification shall ~~request~~
17 state that the planning commission or agency may send to the department, within
18 30 45 days after the date of the notification, a description of any specific hazards
19 ~~which~~ that may affect the health and safety of the residents of the community-based
20 residential facility. No license may be ~~granted~~ issued and no approval under sub. (3)
21 (cm) 3. of a change in the client group served may be granted to a community-based
22 residential facility until the ~~30-day~~ 45-day period has expired or until the
23 department receives the response of the planning commission or agency, whichever
24 is sooner. In ~~granting~~ issuing a license or granting approval under sub. (3) (cm) 3.
25 of a change in the client group served, the department shall give full consideration

1 to such hazards determined by the planning commission or agency. Prior to issuing
2 a license for a community-based residential facility that will serve a client group
3 consisting primarily of persons who are on probation or parole or granting approval
4 under sub. (3) (cm) 3. of a change in the client group served, the department shall
5 work with the applicant to address each of the hazards described. If the department
6 issues a license for a community-based residential facility that will serve a client
7 group consisting primarily of persons who are on probation or parole or approves
8 under sub. (3) (cm) 3. a change in the client group served, the department shall
9 respond in writing to the planning commission or agency addressing each of the
10 hazards described and stating why the license was issued or approval granted
11 despite the hazards.

12 **SECTION 10.** 50.03 (4) (a) 4. of the statutes is created to read:

13 50.03 (4) (a) 4. Within 10 working days after submitting an application for
14 approval by the department under sub. (3) (cm) 3. of a change in the client group
15 served, the applicant shall notify the community advisory committee established
16 under par. (g) 2. or, if there is no community advisory committee, shall establish one
17 that conforms to the requirements of par. (g) 2.

18 **SECTION 11.** 50.03 (4) (g) of the statutes is renumbered 50.03 (4) (g) 1. and
19 amended to read:

20 50.03 (4) (g) 1. Prior to initial licensure of a community-based residential
21 facility, other than a community-based residential facility that will serve a client
22 group consisting primarily of persons who are on probation or parole, the applicant
23 for licensure shall make a good faith effort to establish a community advisory
24 committee consisting of representatives from the proposed community-based

1 residential facility, the neighborhood in which the proposed community-based
2 residential facility will be located and a local unit of government.

3 3. The community advisory committee shall provide a forum for
4 communication for those persons interested in the proposed community-based
5 residential facility. Any committee established under this paragraph shall continue
6 in existence after licensure to make recommendations to the licensee regarding the
7 impact of the community-based residential facility on the neighborhood. The
8 department shall determine compliance with this paragraph both prior to and after
9 initial licensure.

10 **SECTION 12.** 50.03 (4) (g) 2. of the statutes is created to read:

11 50.03 (4) (g) 2. Prior to initial licensure of a community-based residential
12 facility that will serve a client group consisting primarily of persons who are on
13 probation or parole, the applicant for licensure shall establish a community advisory
14 committee consisting of representatives from the proposed community-based
15 residential facility appointed by the proposed community-based residential facility,
16 representatives of the neighborhood in which the proposed community-based
17 residential facility will be located appointed, within 45 days after receipt of notice
18 from the department under par. (a) 3., by the mayor or city manager, village
19 president or town board chairperson or his or her designee and representatives of the
20 city, village or town appointed, within 45 days after receipt of notice from the
21 department under par. (a) 3., by the mayor or city manager, village president or town
22 board chairperson or his or her designee. If the mayor or city manager, village
23 president or town board chairperson or his or her designee fails to make any
24 appointments under this subdivision within the 45-day period, the proposed
25 community-based residential facility may appoint representatives of the

1 neighborhood and city, village or town and shall make a good faith effort to do so.
2 Unless the mayor or city manager, village president or town board chairperson or his
3 or her designee fails to make appointments under this subdivision and the proposed
4 community-based residential facility is unable to make the appointments, a
5 majority of the members of a community advisory committee established under this
6 subdivision shall be representatives of the neighborhood, and representatives of the
7 city, village or town, in which the proposed community-based residential facility will
8 be located.

9 **SECTION 13.** 50.03 (4) (h) of the statutes is created to read:

10 50.03 (4) (h) 1. In the case of a community-based residential facility that will
11 serve a client group consisting primarily of persons who are on probation or parole,
12 if the city, town or village planning commission, or other appropriate city, town or
13 village agency if there is no planning commission, describes any specific hazards
14 under par. (a) 3., if the community advisory committee expresses any concerns
15 regarding the impact of the proposed community-based residential facility or
16 proposed change in the client group served on the neighborhood or if the department,
17 following its investigation under par. (a) 1., has any concerns regarding any specific
18 hazards as described in par. (a) 3. or regarding the impact of the proposed
19 community-based residential facility or proposed change in the client group served
20 on the neighborhood, the department may issue the license or approve the proposed
21 change in the client group served subject to conditions that the department may
22 impose to address those specific hazards or concerns.

23 2. After issuing a license or approving a change in the client group served, the
24 department may not change any condition imposed under subd. 1. to make that
25 condition less stringent unless the department first provides to the city, town or

1 village planning commission, or other appropriate city, town or village agency if there
2 is no planning commission, notice of the proposed change and an explanation
3 showing that the proposed change would not endanger the health or safety of the
4 residents of the community-based residential facility.

5 **SECTION 14. Initial applicability.**

6 (1) INITIAL LICENSURE AND CHANGES IN CLIENT GROUP SERVED. The treatment of
7 sections 48.68 (1r), (3), (3m), (4) and (5) and 50.03 (3) (cm) and (4) (a) 3. and 4., (g)
8 and (h) of the statutes first applies to applications for initial licensure or for approval
9 of a change in the client group served received by the department of health and
10 family services on the effective date of this subsection.

11

(END)