
HOUSE BILL 2056

State of Washington 62nd Legislature 2011 Regular Session

By Representatives Van De Wege, Bailey, Cody, Johnson, and Warnick

Read first time 04/08/11. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to assisted living facilities; amending RCW
2 18.20.020, 18.20.030, 18.20.050, 18.20.090, 18.20.110, 18.20.115,
3 18.20.130, 18.20.140, 18.20.150, 18.20.160, 18.20.170, 18.20.190,
4 18.20.220, 18.20.230, 18.20.270, 18.20.280, 18.20.290, 18.20.300,
5 18.20.310, 18.20.320, 18.20.330, 18.20.340, 18.20.350, 18.20.360,
6 18.20.370, 18.20.380, 18.20.390, 18.20.400, 18.20.410, 18.20.420,
7 18.20.430, 18.20.440, 18.20.900, 18.51.010, 18.52C.020, 18.79.260,
8 18.100.140, 26.34.010, 35.21.766, 35A.70.020, 43.43.832, 46.19.020,
9 48.43.125, 69.41.010, 69.41.085, 69.50.308, 70.79.090, 70.87.305,
10 70.97.060, 70.97.090, 70.122.020, 70.128.030, 70.128.210, 70.129.005,
11 70.129.160, 71.24.025, 74.09.120, 74.15.020, 74.34.020, 74.39A.009,
12 74.39A.010, 74.39A.020, 74.39A.030, 74.39A.320, 74.41.040, 74.42.055,
13 82.04.2908, 82.04.4264, 82.04.4337, 84.36.381, and 84.36.383; and
14 reenacting and amending RCW 18.20.010, 70.38.105, 70.38.111, and
15 70.127.040.

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

17 **Sec. 1.** RCW 18.20.010 and 2000 c 171 s 3 and 2000 c 121 s 1 are
18 each reenacted and amended to read as follows:

19 The purpose of this chapter is to provide for the development,

1 establishment, and enforcement of standards for the maintenance and
2 operation of (~~boarding homes~~) assisted living facilities, which, in
3 the light of advancing knowledge, will promote safe and adequate care
4 of the individuals therein. It is further the intent of the
5 legislature that (~~boarding homes~~) assisted living facilities be
6 available to meet the needs of those for whom they care by recognizing
7 the capabilities of individuals to direct their self-medication or to
8 use supervised self-medication techniques when ordered and approved by
9 a physician licensed under chapter 18.57 or 18.71 RCW or a podiatric
10 physician and surgeon licensed under chapter 18.22 RCW.

11 The legislature finds that many residents of community-based long-
12 term care facilities are vulnerable and their health and well-being are
13 dependent on their caregivers. The quality, skills, and knowledge of
14 their caregivers are often the key to good care. The legislature finds
15 that the need for well-trained caregivers is growing as the state's
16 population ages and residents' needs increase. The legislature intends
17 that current training standards be enhanced.

18 **Sec. 2.** RCW 18.20.020 and 2006 c 242 s 1 are each amended to read
19 as follows:

20 (~~As used in this chapter:~~) The definitions in this section apply
21 throughout this chapter unless the context clearly requires otherwise.

22 (1) (~~"Boarding home"~~) "Assisted living facility" means any home
23 or other institution, however named, which is advertised, announced, or
24 maintained for the express or implied purpose of providing housing,
25 basic services, and assuming general responsibility for the safety and
26 well-being of the residents, and may also provide domiciliary care,
27 consistent with chapter 142, Laws of 2004, to seven or more residents
28 after July 1, 2000. However, (~~a boarding home~~) an assisted living
29 facility that is licensed for three to six residents prior to or on
30 July 1, 2000, may maintain its (~~boarding home~~) assisted living
31 facility license as long as it is continually licensed as (~~a boarding~~
32 ~~home~~) an assisted living facility. (~~"Boarding home"~~) "Assisted
33 living facility" shall not include facilities certified as group
34 training homes pursuant to RCW 71A.22.040, nor any home, institution or
35 section thereof which is otherwise licensed and regulated under the
36 provisions of state law providing specifically for the licensing and
37 regulation of such home, institution or section thereof. Nor shall it

1 include any independent senior housing, independent living units in
2 continuing care retirement communities, or other similar living
3 situations including those subsidized by the department of housing and
4 urban development.

5 (2) "Basic services" means housekeeping services, meals, nutritious
6 snacks, laundry, and activities.

7 (3) "Person" means any individual, firm, partnership, corporation,
8 company, association, or joint stock association, and the legal
9 successor thereof.

10 (4) "Secretary" means the secretary of social and health services.

11 (5) "Department" means the state department of social and health
12 services.

13 (6) "Resident's representative" means a person designated
14 voluntarily by a competent resident, in writing, to act in the
15 resident's behalf concerning the care and services provided by the
16 (~~boarding home~~) assisted living facility and to receive information
17 from the (~~boarding home~~) assisted living facility, if there is no
18 legal representative. The resident's competence shall be determined
19 using the criteria in RCW 11.88.010(1)(e). The resident's
20 representative may not be affiliated with the licensee, (~~boarding~~
21 ~~home~~) assisted living facility, or management company, unless the
22 affiliated person is a family member of the resident. The resident's
23 representative shall not have authority to act on behalf of the
24 resident once the resident is no longer competent.

25 (7) "Domiciliary care" means: Assistance with activities of daily
26 living provided by the (~~boarding home~~) assisted living facility
27 either directly or indirectly; or health support services, if provided
28 directly or indirectly by the (~~boarding home~~) assisted living
29 facility; or intermittent nursing services, if provided directly or
30 indirectly by the (~~boarding home~~) assisted living facility.

31 (8) "General responsibility for the safety and well-being of the
32 resident" means the provision of the following: Prescribed general low
33 sodium diets; prescribed general diabetic diets; prescribed mechanical
34 soft foods; emergency assistance; monitoring of the resident; arranging
35 health care appointments with outside health care providers and
36 reminding residents of such appointments as necessary; coordinating
37 health care services with outside health care providers consistent with
38 RCW 18.20.380; assisting the resident to obtain and maintain glasses,

1 hearing aids, dentures, canes, crutches, walkers, wheelchairs, and
2 assistive communication devices; observation of the resident for
3 changes in overall functioning; blood pressure checks as scheduled;
4 responding appropriately when there are observable or reported changes
5 in the resident's physical, mental, or emotional functioning; or
6 medication assistance as permitted under RCW 69.41.085 and as defined
7 in RCW 69.41.010.

8 (9) "Legal representative" means a person or persons identified in
9 RCW 7.70.065 who may act on behalf of the resident pursuant to the
10 scope of their legal authority. The legal representative shall not be
11 affiliated with the licensee, (~~(boarding home)~~) assisted living
12 facility, or management company, unless the affiliated person is a
13 family member of the resident.

14 (10) "Nonresident individual" means a person who resides in
15 independent senior housing, independent living units in continuing care
16 retirement communities, or in other similar living environments or in
17 (~~(a boarding home)~~) an assisted living facility and may receive one or
18 more of the services listed in RCW 18.20.030(5). A nonresident
19 individual may not receive domiciliary care, as defined in this
20 chapter, directly or indirectly by the (~~(boarding home)~~) assisted
21 living facility and may not receive the items and services listed in
22 subsection (8) of this section, except during the time the person is
23 receiving adult day services as defined in this section.

24 (11) "Resident" means an individual who is not related by blood or
25 marriage to the operator of the (~~(boarding home)~~) assisted living
26 facility, and by reason of age or disability, chooses to reside in the
27 (~~(boarding home)~~) assisted living facility and receives basic services
28 and one or more of the services listed under general responsibility for
29 the safety and well-being of the resident and may receive domiciliary
30 care or respite care provided directly or indirectly by the (~~(boarding~~
31 ~~home)~~) assisted living facility and shall be permitted to receive
32 hospice care through an outside service provider when arranged by the
33 resident or the resident's legal representative under RCW 18.20.380.

34 (12) "Resident applicant" means an individual who is seeking
35 admission to a licensed (~~(boarding home)~~) assisted living facility and
36 who has completed and signed an application for admission, or such
37 application for admission has been completed and signed in their behalf

1 by their legal representative if any, and if not, then the designated
2 representative if any.

3 (13) "Adult day services" means care and services provided to a
4 nonresident individual by the ((~~boarding-home~~)) assisted living
5 facility on the ((~~boarding-home~~)) assisted living facility premises,
6 for a period of time not to exceed ten continuous hours, and does not
7 involve an overnight stay.

8 **Sec. 3.** RCW 18.20.030 and 2004 c 142 s 17 are each amended to read
9 as follows:

10 (1) After January 1, 1958, no person shall operate or maintain ((~~a~~
11 ~~boarding-home~~)) an assisted living facility as defined in this chapter
12 within this state without a license under this chapter.

13 (2) ((~~A boarding-home~~)) An assisted living facility license is not
14 required for the housing, or services, that are customarily provided
15 under landlord tenant agreements governed by the residential landlord-
16 tenant act, chapter 59.18 RCW, or when housing nonresident individuals
17 who, without ongoing assistance from the ((~~boarding-home~~)) assisted
18 living facility, initiate and arrange for services provided by persons
19 other than the ((~~boarding-home~~)) assisted living facility licensee or
20 the licensee's contractor. This subsection does not prohibit the
21 licensee from furnishing written information concerning available
22 community resources to the nonresident individual or the individual's
23 family members or legal representatives. The licensee may not require
24 the use of any particular service provider.

25 (3) Residents receiving domiciliary care, directly or indirectly by
26 the ((~~boarding-home~~)) assisted living facility, are not considered
27 nonresident individuals for the purposes of this section.

28 (4) ((~~A boarding-home~~)) An assisted living facility license is
29 required when any person other than an outside service provider, under
30 RCW 18.20.380, or family member:

31 (a) Assumes general responsibility for the safety and well-being of
32 a resident;

33 (b) Provides assistance with activities of daily living, either
34 directly or indirectly;

35 (c) Provides health support services, either directly or
36 indirectly; or

1 (d) Provides intermittent nursing services, either directly or
2 indirectly.

3 (5) (~~(A boarding home)~~) An assisted living facility license is not
4 required for one or more of the following services that may be provided
5 to a nonresident individual: (a) Emergency assistance provided on an
6 intermittent or nonroutine basis to any nonresident individual; (b)
7 systems employed by independent senior housing, or independent living
8 units in continuing care retirement communities, to respond to the
9 potential need for emergency services for nonresident individuals; (c)
10 infrequent, voluntary, and nonscheduled blood pressure checks for
11 nonresident individuals; (d) nurse referral services provided at the
12 request of a nonresident individual to determine whether referral to an
13 outside health care provider is recommended; (e) making health care
14 appointments at the request of nonresident individuals; (f)
15 preadmission assessment, at the request of the nonresident individual,
16 for the purposes of transitioning to a licensed care setting; or (g)
17 services customarily provided under landlord tenant agreements governed
18 by the residential landlord-tenant act, chapter 59.18 RCW. The
19 preceding services may not include continual care or supervision of a
20 nonresident individual without (~~(a boarding home)~~) an assisted living
21 facility license.

22 **Sec. 4.** RCW 18.20.050 and 2004 c 140 s 1 are each amended to read
23 as follows:

24 (1) Upon receipt of an application for license, if the applicant
25 and the (~~(boarding home)~~) facilities of the assisted living facility
26 meet the requirements established under this chapter, the department
27 shall issue a license. If there is a failure to comply with the
28 provisions of this chapter or the standards and rules adopted pursuant
29 thereto, the department may in its discretion issue to an applicant for
30 a license, or for the renewal of a license, a provisional license which
31 will permit the operation of the (~~(boarding home)~~) assisted living
32 facility for a period to be determined by the department, but not to
33 exceed twelve months, which provisional license shall not be subject to
34 renewal. The department may also place conditions on the license under
35 RCW 18.20.190. At the time of the application for or renewal of a
36 license or provisional license the licensee shall pay a license fee as
37 established by the department under RCW 43.20B.110. All licenses

1 issued under the provisions of this chapter shall expire on a date to
2 be set by the department, but no license issued pursuant to this
3 chapter shall exceed twelve months in duration. However, when the
4 annual license renewal date of a previously licensed (~~(boarding home)~~)
5 assisted living facility is set by the department on a date less than
6 twelve months prior to the expiration date of a license in effect at
7 the time of reissuance, the license fee shall be prorated on a monthly
8 basis and a credit be allowed at the first renewal of a license for any
9 period of one month or more covered by the previous license. All
10 applications for renewal of a license shall be made not later than
11 thirty days prior to the date of expiration of the license. Each
12 license shall be issued only for the premises and persons named in the
13 application, and no license shall be transferable or assignable.
14 Licenses shall be posted in a conspicuous place on the licensed
15 premises.

16 (2) A licensee who receives notification of the department's
17 initiation of a denial, suspension, nonrenewal, or revocation of (~~(a~~
18 ~~boarding home)~~) an assisted living facility license may, in lieu of
19 appealing the department's action, surrender or relinquish the license.
20 The department shall not issue a new license to or contract with the
21 licensee, for the purposes of providing care to vulnerable adults or
22 children, for a period of twenty years following the surrendering or
23 relinquishment of the former license. The licensing record shall
24 indicate that the licensee relinquished or surrendered the license,
25 without admitting the violations, after receiving notice of the
26 department's initiation of a denial, suspension, nonrenewal, or
27 revocation of a license.

28 (3) The department shall establish, by rule, the circumstances
29 requiring a change in licensee, which include, but are not limited to,
30 a change in ownership or control of the (~~(boarding home)~~) assisted
31 living facility or licensee, a change in the licensee's form of legal
32 organization, such as from sole proprietorship to partnership or
33 corporation, and a dissolution or merger of the licensed entity with
34 another legal organization. The new licensee is subject to the
35 provisions of this chapter, the rules adopted under this chapter, and
36 other applicable law. In order to ensure that the safety of residents
37 is not compromised by a change in licensee, the new licensee is

1 responsible for correction of all violations that may exist at the time
2 of the new license.

3 (4) The department may deny, suspend, modify, revoke, or refuse to
4 renew a license when the department finds that the applicant or
5 licensee or any partner, officer, director, managerial employee, or
6 majority owner of the applicant or licensee:

7 (a) Operated ((~~a boarding home~~)) an assisted living facility
8 without a license or under a revoked or suspended license; or

9 (b) Knowingly or with reason to know made a false statement of a
10 material fact (i) in an application for license or any data attached to
11 the application, or (ii) in any matter under investigation by the
12 department; or

13 (c) Refused to allow representatives or agents of the department to
14 inspect (i) the books, records, and files required to be maintained, or
15 (ii) any portion of the premises of the ((~~boarding home~~)) assisted
16 living facility; or

17 (d) Willfully prevented, interfered with, or attempted to impede in
18 any way (i) the work of any authorized representative of the
19 department, or (ii) the lawful enforcement of any provision of this
20 chapter; or

21 (e) Has a history of significant noncompliance with federal or
22 state regulations in providing care or services to vulnerable adults or
23 children. In deciding whether to deny, suspend, modify, revoke, or
24 refuse to renew a license under this section, the factors the
25 department considers shall include the gravity and frequency of the
26 noncompliance.

27 (5) The department shall serve upon the applicant a copy of the
28 decision granting or denying an application for a license. An
29 applicant shall have the right to contest denial of his or her
30 application for a license as provided in chapter 34.05 RCW by
31 requesting a hearing in writing within twenty-eight days after receipt
32 of the notice of denial.

33 **Sec. 5.** RCW 18.20.090 and 1985 c 213 s 6 are each amended to read
34 as follows:

35 The department shall adopt, amend, and promulgate such rules,
36 regulations, and standards with respect to all ((~~boarding homes~~))
37 assisted living facilities and operators thereof to be licensed

1 hereunder as may be designed to further the accomplishment of the
2 purposes of this chapter in promoting safe and adequate care of
3 individuals in ((~~boarding homes~~)) assisted living facilities and the
4 sanitary, hygienic and safe conditions of the ((~~boarding home~~))
5 assisted living facility in the interest of public health, safety, and
6 welfare.

7 **Sec. 6.** RCW 18.20.110 and 2004 c 144 s 3 are each amended to read
8 as follows:

9 The department shall make or cause to be made, at least every
10 eighteen months with an annual average of fifteen months, an inspection
11 and investigation of all ((~~boarding homes~~)) assisted living facilities.
12 However, the department may delay an inspection to twenty-four months
13 if the ((~~boarding home~~)) assisted living facility has had three
14 consecutive inspections with no written notice of violations and has
15 received no written notice of violations resulting from complaint
16 investigation during that same time period. The department may at
17 anytime make an unannounced inspection of a licensed ((~~home~~)) facility
18 to assure that the licensee is in compliance with this chapter and the
19 rules adopted under this chapter. Every inspection shall focus
20 primarily on actual or potential resident outcomes, and may include an
21 inspection of every part of the premises and an examination of all
22 records, methods of administration, the general and special dietary,
23 and the stores and methods of supply; however, the department shall not
24 have access to financial records or to other records or reports
25 described in RCW 18.20.390. Financial records of the ((~~boarding home~~))
26 assisted living facility may be examined when the department has
27 reasonable cause to believe that a financial obligation related to
28 resident care or services will not be met, such as a complaint that
29 staff wages or utility costs have not been paid, or when necessary for
30 the department to investigate alleged financial exploitation of a
31 resident. Following such an inspection or inspections, written notice
32 of any violation of this law or the rules adopted hereunder shall be
33 given to the applicant or licensee and the department. The department
34 may prescribe by rule that any licensee or applicant desiring to make
35 specified types of alterations or additions to its facilities or to
36 construct new facilities shall, before commencing such alteration,
37 addition, or new construction, submit plans and specifications therefor

1 to the agencies responsible for plan reviews for preliminary inspection
2 and approval or recommendations with respect to compliance with the
3 rules and standards herein authorized.

4 **Sec. 7.** RCW 18.20.115 and 2001 c 85 s 1 are each amended to read
5 as follows:

6 The department shall, within available funding for this purpose,
7 develop and make available to (~~boarding homes~~) assisted living
8 facilities a quality improvement consultation program using the
9 following principles:

10 (1) The system shall be resident-centered and promote privacy,
11 independence, dignity, choice, and a home or home-like environment for
12 residents consistent with chapter 70.129 RCW.

13 (2) The goal of the system is continuous quality improvement with
14 the focus on resident satisfaction and outcomes for residents. The
15 quality improvement consultation program shall be offered to (~~boarding~~
16 ~~homes~~) assisted living facilities on a voluntary basis. Based on
17 requests for the services of the quality improvement consultation
18 program, the department may establish a process for prioritizing
19 service availability.

20 (3) (~~Boarding homes~~) Assisted living facilities should be
21 supported in their efforts to improve quality and address problems, as
22 identified by the licensee, initially through training, consultation,
23 and technical assistance. At a minimum, the department may, within
24 available funding, at the request of the (~~boarding home~~) assisted
25 living facility, conduct on-site visits and telephone consultations.

26 (4) To facilitate collaboration and trust between the (~~boarding~~
27 ~~homes~~) assisted living facilities and the department's quality
28 improvement consultation program staff, the consultation program staff
29 shall not simultaneously serve as department licensors, complaint
30 investigators, or participate in any enforcement-related decisions,
31 within the region in which they perform consultation activities; except
32 such staff may investigate on an emergency basis, complaints anywhere
33 in the state when the complaint indicates high risk to resident health
34 or safety. Any records or information gained as a result of their work
35 under the quality improvement consultation program shall not be
36 disclosed to or shared with nonmanagerial department licensing or
37 complaint investigation staff, unless necessary to carry out duties

1 described under chapter 74.34 RCW. The emphasis should be on problem
2 prevention. Nothing in this section shall limit or interfere with the
3 consultant's mandated reporting duties under chapter 74.34 RCW.

4 (5) The department shall promote the development of a training
5 system that is practical and relevant to the needs of residents and
6 staff. To improve access to training, especially for rural
7 communities, the training system may include, but is not limited to,
8 the use of satellite technology distance learning that is coordinated
9 through community colleges or other appropriate organizations.

10 **Sec. 8.** RCW 18.20.130 and 2000 c 47 s 6 are each amended to read
11 as follows:

12 Standards for fire protection and the enforcement thereof, with
13 respect to all ((boarding homes)) assisted living facilities to be
14 licensed hereunder, shall be the responsibility of the chief of the
15 Washington state patrol, through the director of fire protection, who
16 shall adopt such recognized standards as may be applicable to
17 ((boarding homes)) assisted living facilities for the protection of
18 life against the cause and spread of fire and fire hazards. The
19 department, upon receipt of an application for a license, shall submit
20 to the chief of the Washington state patrol, through the director of
21 fire protection, in writing, a request for an inspection, giving the
22 applicant's name and the location of the premises to be licensed. Upon
23 receipt of such a request, the chief of the Washington state patrol,
24 through the director of fire protection, or his or her deputy, shall
25 make an inspection of the ((boarding home)) assisted living facility to
26 be licensed, and if it is found that the premises do not comply with
27 the required safety standards and fire rules as adopted by the chief of
28 the Washington state patrol, through the director of fire protection,
29 he or she shall promptly make a written report to the ((boarding home))
30 assisted living facility and the department as to the manner and time
31 allowed in which the premises must qualify for a license and set forth
32 the conditions to be remedied with respect to fire rules. The
33 department, applicant, or licensee shall notify the chief of the
34 Washington state patrol, through the director of fire protection, upon
35 completion of any requirements made by him or her, and the chief of the
36 Washington state patrol, through the director of fire protection, or
37 his or her deputy, shall make a reinspection of such premises.

1 Whenever the ((~~boarding home~~)) assisted living facility to be licensed
2 meets with the approval of the chief of the Washington state patrol,
3 through the director of fire protection, he or she shall submit to the
4 department a written report approving same with respect to fire
5 protection before a full license can be issued. The chief of the
6 Washington state patrol, through the director of fire protection, shall
7 make or cause to be made inspections of such ((~~homes~~)) facilities at
8 least annually.

9 In cities which have in force a comprehensive building code, the
10 provisions of which are determined by the chief of the Washington state
11 patrol, through the director of fire protection, to be equal to the
12 minimum standards of the code for ((~~boarding homes~~)) assisted living
13 facilities adopted by the chief of the Washington state patrol, through
14 the director of fire protection, the chief of the fire department,
15 provided the latter is a paid chief of a paid fire department, shall
16 make the inspection with the chief of the Washington state patrol,
17 through the director of fire protection, or his or her deputy, and they
18 shall jointly approve the premises before a full license can be issued.

19 **Sec. 9.** RCW 18.20.140 and 1957 c 253 s 14 are each amended to read
20 as follows:

21 Any person operating or maintaining any ((~~boarding home~~)) assisted
22 living facility without a license under this chapter shall be guilty of
23 a misdemeanor and each day of a continuing violation shall be
24 considered a separate offense.

25 **Sec. 10.** RCW 18.20.150 and 1957 c 253 s 15 are each amended to
26 read as follows:

27 Notwithstanding the existence or use of any other remedy, the
28 department, may, in the manner provided by law, upon the advice of the
29 attorney general who shall represent the department in the proceedings,
30 maintain an action in the name of the state for an injunction or other
31 process against any person to restrain or prevent the operation or
32 maintenance of ((~~a boarding home~~)) an assisted living facility without
33 a license under this chapter.

34 **Sec. 11.** RCW 18.20.160 and 2004 c 142 s 12 are each amended to
35 read as follows:

1 No person operating (~~(a boarding home)~~) an assisted living facility
2 licensed under this chapter shall admit to or retain in the (~~(boarding~~
3 ~~home)~~) assisted living facility any aged person requiring nursing or
4 medical care of a type provided by institutions licensed under chapters
5 18.51, 70.41 or 71.12 RCW, except that when registered nurses are
6 available, and upon a doctor's order that a supervised medication
7 service is needed, it may be provided. Supervised medication services,
8 as defined by the department and consistent with chapters 69.41 and
9 18.79 RCW, may include an approved program of self-medication or self-
10 directed medication. Such medication service shall be provided only to
11 residents who otherwise meet all requirements for residency in (~~(a~~
12 ~~boarding home)~~) an assisted living facility. No (~~(boarding home)~~)
13 assisted living facility shall admit or retain a person who requires
14 the frequent presence and frequent evaluation of a registered nurse,
15 excluding persons who are receiving hospice care or persons who have a
16 short-term illness that is expected to be resolved within fourteen
17 days.

18 **Sec. 12.** RCW 18.20.170 and 1957 c 253 s 17 are each amended to
19 read as follows:

20 Nothing in this chapter or the rules and regulations adopted
21 pursuant thereto shall be construed as authorizing the supervision,
22 regulation, or control of the remedial care or treatment of residents
23 in any (~~(boarding home)~~) assisted living facility conducted for those
24 who rely upon treatment by prayer or spiritual means in accordance with
25 the creed or tenets of any well-recognized church or religious
26 denomination.

27 **Sec. 13.** RCW 18.20.190 and 2003 c 231 s 6 are each amended to read
28 as follows:

29 (1) The department of social and health services is authorized to
30 take one or more of the actions listed in subsection (2) of this
31 section in any case in which the department finds that (~~(a boarding~~
32 ~~home)~~) an assisted living facility provider has:

33 (a) Failed or refused to comply with the requirements of this
34 chapter or the rules adopted under this chapter;

35 (b) Operated (~~(a boarding home)~~) an assisted living facility
36 without a license or under a revoked license;

1 (c) Knowingly, or with reason to know, made a false statement of
2 material fact on his or her application for license or any data
3 attached thereto, or in any matter under investigation by the
4 department; or

5 (d) Willfully prevented or interfered with any inspection or
6 investigation by the department.

7 (2) When authorized by subsection (1) of this section, the
8 department may take one or more of the following actions:

9 (a) Refuse to issue a license;

10 (b) Impose reasonable conditions on a license, such as correction
11 within a specified time, training, and limits on the type of clients
12 the provider may admit or serve;

13 (c) Impose civil penalties of not more than one hundred dollars per
14 day per violation;

15 (d) Suspend, revoke, or refuse to renew a license;

16 (e) Suspend admissions to the ((~~boarding home~~)) assisted living
17 facility by imposing stop placement; or

18 (f) Suspend admission of a specific category or categories of
19 residents as related to the violation by imposing a limited stop
20 placement.

21 (3) When the department orders stop placement or a limited stop
22 placement, the facility shall not admit any new resident until the stop
23 placement or limited stop placement order is terminated. The
24 department may approve readmission of a resident to the facility from
25 a hospital or nursing home during the stop placement or limited stop
26 placement. The department shall terminate the stop placement or
27 limited stop placement when: (a) The violations necessitating the stop
28 placement or limited stop placement have been corrected; and (b) the
29 provider exhibits the capacity to maintain correction of the violations
30 previously found deficient. However, if upon the revisit the
31 department finds new violations that the department reasonably believes
32 will result in a new stop placement or new limited stop placement, the
33 previous stop placement or limited stop placement shall remain in
34 effect until the new stop placement or new limited stop placement is
35 imposed.

36 (4) After a department finding of a violation for which a stop
37 placement or limited stop placement has been imposed, the department
38 shall make an on-site revisit of the provider within fifteen working

1 days from the request for revisit, to ensure correction of the
2 violation. For violations that are serious or recurring or uncorrected
3 following a previous citation, and create actual or threatened harm to
4 one or more residents' well-being, including violations of residents'
5 rights, the department shall make an on-site revisit as soon as
6 appropriate to ensure correction of the violation. Verification of
7 correction of all other violations may be made by either a department
8 on-site revisit or by written or photographic documentation found by
9 the department to be credible. This subsection does not prevent the
10 department from enforcing license suspensions or revocations. Nothing
11 in this subsection shall interfere with or diminish the department's
12 authority and duty to ensure that the provider adequately cares for
13 residents, including to make departmental on-site revisits as needed to
14 ensure that the provider protects residents, and to enforce compliance
15 with this chapter.

16 (5) RCW 43.20A.205 governs notice of a license denial, revocation,
17 suspension, or modification. Chapter 34.05 RCW applies to department
18 actions under this section, except that orders of the department
19 imposing license suspension, stop placement, limited stop placement, or
20 conditions for continuation of a license are effective immediately upon
21 notice and shall continue pending any hearing.

22 (6) For the purposes of this section, "limited stop placement"
23 means the ability to suspend admission of a specific category or
24 categories of residents.

25 **Sec. 14.** RCW 18.20.220 and 1997 c 164 s 1 are each amended to read
26 as follows:

27 For the purpose of encouraging a nursing home licensed under
28 chapter 18.51 RCW to convert a portion or all of its licensed bed
29 capacity to provide enhanced adult residential care contracted services
30 under chapter 74.39A RCW, the department shall:

31 (1) Find the nursing home to be in satisfactory compliance with RCW
32 18.20.110 and 18.20.130, upon application for (~~boarding home~~)
33 assisted living facility licensure and the production of copies of its
34 most recent nursing home inspection reports demonstrating compliance
35 with the safety standards and fire regulations, as required by RCW
36 18.51.140, and the state building code, as required by RCW 18.51.145,
37 including any waivers that may have been granted. However, (~~boarding~~

1 ~~home~~) assisted living facility licensure requirements pertaining to
2 resident to bathing fixture/toilet ratio, corridor call system,
3 resident room door closures, and resident room windows may require
4 modification, unless determined to be functionally equivalent, based
5 upon a prelicensure survey inspection.

6 (2) Allow residents receiving enhanced adult residential care
7 services to make arrangements for on-site health care services,
8 consistent with Title 18 RCW regulating health care professions, to the
9 extent that such services can be provided while maintaining the
10 resident's right to privacy and safety in treatment, but this in no way
11 means that such services may only be provided in a private room. The
12 provision of on-site health care services must otherwise be consistent
13 with RCW 18.20.160 and the rules adopted under RCW 18.20.160.

14 **Sec. 15.** RCW 18.20.230 and 1999 c 372 s 3 are each amended to read
15 as follows:

16 (1) The department of social and health services shall review, in
17 coordination with the department of health, the nursing care quality
18 assurance commission, adult family home providers, (~~boarding home~~)
19 assisted living facility providers, in-home personal care providers,
20 and long-term care consumers and advocates, training standards for
21 administrators and resident caregiving staff. Any proposed
22 enhancements shall be consistent with this section, shall take into
23 account and not duplicate other training requirements applicable to
24 (~~boarding homes~~) assisted living facilities and staff, and shall be
25 developed with the input of (~~boarding home~~) assisted living facility
26 and resident representatives, health care professionals, and other
27 vested interest groups. Training standards and the delivery system
28 shall be relevant to the needs of residents served by the (~~boarding~~
29 ~~home~~) assisted living facility and recipients of long-term in-home
30 personal care services and shall be sufficient to ensure that
31 administrators and caregiving staff have the skills and knowledge
32 necessary to provide high quality, appropriate care.

33 (2) The recommendations on training standards and the delivery
34 system developed under subsection (1) of this section shall be based on
35 a review and consideration of the following: Quality of care;
36 availability of training; affordability, including the training costs
37 incurred by the department of social and health services and private

1 providers; portability of existing training requirements; competency
2 testing; practical and clinical course work; methods of delivery of
3 training; standards for management and caregiving staff training; and
4 necessary enhancements for special needs populations and resident
5 rights training. Residents with special needs include, but are not
6 limited to, residents with a diagnosis of mental illness, dementia, or
7 developmental disability.

8 **Sec. 16.** RCW 18.20.270 and 2002 c 233 s 1 are each amended to read
9 as follows:

10 (1) The definitions in this subsection apply throughout this
11 section unless the context clearly requires otherwise.

12 (a) "Caregiver" includes any person who provides residents with
13 hands-on personal care on behalf of (~~(a boarding home)~~) an assisted
14 living facility, except volunteers who are directly supervised.

15 (b) "Direct supervision" means oversight by a person who has
16 demonstrated competency in the core areas or has been fully exempted
17 from the training requirements pursuant to this section, is on the
18 premises, and is quickly and easily available to the caregiver.

19 (2) Training must have the following components: Orientation,
20 basic training, specialty training as appropriate, and continuing
21 education. All (~~(boarding home)~~) assisted living facility employees or
22 volunteers who routinely interact with residents shall complete
23 orientation. (~~(Boarding—home)~~) Assisted living facility
24 administrators, or their designees, and caregivers shall complete
25 orientation, basic training, specialty training as appropriate, and
26 continuing education.

27 (3) Orientation consists of introductory information on residents'
28 rights, communication skills, fire and life safety, and universal
29 precautions. Orientation must be provided at the facility by
30 appropriate (~~(boarding home)~~) assisted living facility staff to all
31 (~~(boarding home)~~) assisted living facility employees before the
32 employees have routine interaction with residents.

33 (4) Basic training consists of modules on the core knowledge and
34 skills that caregivers need to learn and understand to effectively and
35 safely provide care to residents. Basic training must be outcome-
36 based, and the effectiveness of the basic training must be measured by
37 demonstrated competency in the core areas through the use of a

1 competency test. Basic training must be completed by caregivers within
2 one hundred twenty days of the date on which they begin to provide
3 hands-on care or within one hundred twenty days of September 1, 2002,
4 whichever is later. Until competency in the core areas has been
5 demonstrated, caregivers shall not provide hands-on personal care to
6 residents without direct supervision. ((~~Boarding-home~~)) Assisted
7 living facility administrators, or their designees, must complete basic
8 training and demonstrate competency within one hundred twenty days of
9 employment or within one hundred twenty days of September 1, 2002,
10 whichever is later.

11 (5) For ((~~boarding-homes~~)) assisted living facilities that serve
12 residents with special needs such as dementia, developmental
13 disabilities, or mental illness, specialty training is required of
14 administrators, or designees, and caregivers. Specialty training
15 consists of modules on the core knowledge and skills that caregivers
16 need to effectively and safely provide care to residents with special
17 needs. Specialty training should be integrated into basic training
18 wherever appropriate. Specialty training must be outcome-based, and
19 the effectiveness of the specialty training measured by demonstrated
20 competency in the core specialty areas through the use of a competency
21 test. Specialty training must be completed by caregivers within one
22 hundred twenty days of the date on which they begin to provide hands-on
23 care to a resident having special needs or within one hundred twenty
24 days of September 1, 2002, whichever is later. However, if specialty
25 training is not integrated with basic training, the specialty training
26 must be completed within ninety days of completion of basic training.
27 Until competency in the core specialty areas has been demonstrated,
28 caregivers shall not provide hands-on personal care to residents with
29 special needs without direct supervision. ((~~Boarding-home~~)) Assisted
30 living facility administrators, or their designees, must complete
31 specialty training and demonstrate competency within one hundred twenty
32 days of September 1, 2002, or one hundred twenty days from the date on
33 which the administrator or his or her designee is hired, whichever is
34 later, if the ((~~boarding-home~~)) assisted living facility serves one or
35 more residents with special needs.

36 (6) Continuing education consists of ongoing delivery of
37 information to caregivers on various topics relevant to the care
38 setting and care needs of residents. Competency testing is not

1 required for continuing education. Continuing education is not
2 required in the same calendar year in which basic or modified basic
3 training is successfully completed. Continuing education is required
4 in each calendar year thereafter. If specialty training is completed,
5 the specialty training applies toward any continuing education
6 requirement for up to two years following the completion of the
7 specialty training.

8 (7) Persons who successfully challenge the competency test for
9 basic training are fully exempt from the basic training requirements of
10 this section. Persons who successfully challenge the specialty
11 training competency test are fully exempt from the specialty training
12 requirements of this section.

13 (8) Licensed persons who perform the tasks for which they are
14 licensed are fully or partially exempt from the training requirements
15 of this section, as specified by the department in rule.

16 (9) In an effort to improve access to training and education and
17 reduce costs, especially for rural communities, the coordinated system
18 of long-term care training and education must include the use of
19 innovative types of learning strategies such as internet resources,
20 videotapes, and distance learning using satellite technology
21 coordinated through community colleges or other entities, as defined by
22 the department.

23 (10) The department shall develop criteria for the approval of
24 orientation, basic training, and specialty training programs.

25 (11) (~~Boarding homes~~) assisted living facilities that desire to
26 deliver facility-based training with facility designated trainers, or
27 (~~boarding homes~~) assisted living facilities that desire to pool their
28 resources to create shared training systems, must be encouraged by the
29 department in their efforts. The department shall develop criteria for
30 reviewing and approving trainers and training materials that are
31 substantially similar to or better than the materials developed by the
32 department. The department may approve a curriculum based upon
33 attestation by (~~a boarding home~~) an assisted living facility
34 administrator that the (~~boarding home's~~) assisted living facility's
35 training curriculum addresses basic and specialty training competencies
36 identified by the department, and shall review a curriculum to verify
37 that it meets these requirements. The department may conduct the
38 review as part of the next regularly scheduled yearly inspection and

1 investigation required under RCW 18.20.110. The department shall
2 rescind approval of any curriculum if it determines that the curriculum
3 does not meet these requirements.

4 (12) The department shall adopt rules by September 1, 2002, for the
5 implementation of this section.

6 (13) The orientation, basic training, specialty training, and
7 continuing education requirements of this section commence September 1,
8 2002, or one hundred twenty days from the date of employment, whichever
9 is later, and shall be applied to (a) employees hired subsequent to
10 September 1, 2002; and (b) existing employees that on September 1,
11 2002, have not successfully completed the training requirements under
12 RCW 74.39A.010 or 74.39A.020 and this section. Existing employees who
13 have not successfully completed the training requirements under RCW
14 74.39A.010 or 74.39A.020 shall be subject to all applicable
15 requirements of this section. However, prior to September 1, 2002,
16 nothing in this section affects the current training requirements under
17 RCW 74.39A.010.

18 **Sec. 17.** RCW 18.20.280 and 2003 c 231 s 7 are each amended to read
19 as follows:

20 (1) The ((~~boarding home~~)) assisted living facility must assume
21 general responsibility for each resident and must promote each
22 resident's health, safety, and well-being consistent with the resident
23 negotiated care plan.

24 (2) The ((~~boarding home~~)) assisted living facility is not required
25 to supervise the activities of a person providing care or services to
26 a resident when the resident, or legal representative, has
27 independently arranged for or contracted with the person and the person
28 is not directly or indirectly controlled or paid by the ((~~boarding~~
29 ~~home~~)) assisted living facility. However, the ((~~boarding home~~))
30 assisted living facility is required to coordinate services with such
31 person to the extent allowed by the resident, or legal representative,
32 and consistent with the resident's negotiated care plan. Further, the
33 ((~~boarding home~~)) assisted living facility is required to observe the
34 resident and respond appropriately to any changes in the resident's
35 overall functioning consistent with chapter 70.129 RCW, this chapter,
36 and rules adopted under this chapter.

1 **Sec. 18.** RCW 18.20.290 and 2006 c 64 s 1 are each amended to read
2 as follows:

3 (1) When ((~~a boarding home~~)) an assisted living facility contracts
4 with the department to provide adult residential care services,
5 enhanced adult residential care services, or assisted living services
6 under chapter 74.39A RCW, the ((~~boarding home~~)) assisted living
7 facility must hold a medicaid eligible resident's room or unit when
8 short-term care is needed in a nursing home or hospital, the resident
9 is likely to return to the ((~~boarding home~~)) assisted living facility,
10 and payment is made under subsection (2) of this section.

11 (2) The medicaid resident's bed or unit shall be held for up to
12 twenty days. The per day bed or unit hold compensation amount shall be
13 seventy percent of the daily rate paid for the first seven days the bed
14 or unit is held for the resident who needs short-term nursing home care
15 or hospitalization. The rate for the eighth through the twentieth day
16 a bed is held shall be established in rule, but shall be no lower than
17 ten dollars per day the bed or unit is held.

18 (3) The ((~~boarding home~~)) assisted living facility may seek third-
19 party payment to hold a bed or unit for twenty-one days or longer. The
20 third-party payment shall not exceed the medicaid daily rate paid to
21 the facility for the resident. If third-party payment is not
22 available, the medicaid resident may return to the first available and
23 appropriate bed or unit, if the resident continues to meet the
24 admission criteria under this chapter.

25 **Sec. 19.** RCW 18.20.300 and 2004 c 142 s 2 are each amended to read
26 as follows:

27 (1) ((~~A boarding home~~)) An assisted living facility, licensed under
28 this chapter, may provide domiciliary care services, as defined in this
29 chapter, and shall disclose the scope of care and services that it
30 chooses to provide.

31 (2) The ((~~boarding home~~)) assisted living facility licensee shall
32 disclose to the residents, the residents' legal representative if any,
33 and if not, the residents' representative if any, and to interested
34 consumers upon request, the scope of care and services offered, using
35 the form developed and provided by the department, in addition to any
36 supplemental information that may be provided by the licensee. The
37 form that the department develops shall be standardized, reasonable in

1 length, and easy to read. The ((~~boarding-home's~~)) assisted living
2 facility's disclosure statement shall indicate the scope of domiciliary
3 care assistance provided and shall indicate that it permits the
4 resident or the resident's legal representative to independently
5 arrange for outside services under RCW 18.20.380.

6 (3)(a) If the ((~~boarding-home~~)) assisted living facility licensee
7 decreases the scope of services that it provides due to circumstances
8 beyond the licensee's control, the licensee shall provide a minimum of
9 thirty days' written notice to the residents, the residents' legal
10 representative if any, and if not, the residents' representative if
11 any, before the effective date of the decrease in the scope of care or
12 services provided.

13 (b) If the licensee voluntarily decreases the scope of services,
14 and any such decrease in the scope of services provided will result in
15 the discharge of one or more residents, then ninety days' written
16 notice shall be provided prior to the effective date of the decrease.
17 Notice shall be provided to the affected residents, the residents'
18 legal representative if any, and if not, the residents' representative
19 if any.

20 (c) If the ((~~boarding-home~~)) assisted living facility licensee
21 increases the scope of services that it chooses to provide, the
22 licensee shall promptly provide written notice to the residents, the
23 residents' legal representative if any, and if not, the residents'
24 representative if any, and shall indicate the date on which the
25 increase in the scope of care or services is effective.

26 (4) When the care needs of a resident exceed the disclosed scope of
27 care or services that ((~~a-boarding-home~~)) an assisted living facility
28 licensee provides, the licensee may exceed the care or services
29 disclosed consistent with RCW 70.129.030(3) and 70.129.110(3)(a).
30 Providing care or services to a resident that exceed the care and
31 services disclosed may or may not mean that the provider is capable of
32 or required to provide the same care or services to other residents.

33 (5) Even though the ((~~boarding-home~~)) assisted living facility
34 licensee may disclose that it can provide certain care or services to
35 resident applicants or to their legal representative if any, and if
36 not, to the resident applicants' representative if any, the licensee
37 may deny admission to a resident applicant when the licensee determines

1 that the needs of the resident applicant cannot be met, as long as the
2 provider operates in compliance with state and federal law, including
3 RCW 70.129.030(3).

4 (6) The disclosure form is intended to assist consumers in
5 selecting (~~(boarding-home)~~) assisted living facility services and,
6 therefore, shall not be construed as an implied or express contract
7 between the (~~(boarding-home)~~) assisted living facility licensee and the
8 resident.

9 **Sec. 20.** RCW 18.20.310 and 2004 c 142 s 3 are each amended to read
10 as follows:

11 (1) (~~(Boarding-homes)~~) Assisted living facilities are not required
12 to provide assistance with one or more activities of daily living.

13 (2) If (~~(a boarding-home)~~) an assisted living facility licensee
14 chooses to provide assistance with activities of daily living, the
15 licensee shall provide at least the minimal level of assistance for all
16 activities of daily living consistent with subsection (3) of this
17 section and consistent with the reasonable accommodation requirements
18 in state or federal laws. Activities of daily living are limited to
19 and include the following:

- 20 (a) Bathing;
- 21 (b) Dressing;
- 22 (c) Eating;
- 23 (d) Personal hygiene;
- 24 (e) Transferring;
- 25 (f) Toileting; and
- 26 (g) Ambulation and mobility.

27 (3) The department shall, in rule, define the minimum level of
28 assistance that will be provided for all activities of daily living,
29 however, such rules shall not require more than occasional stand-by
30 assistance or more than occasional physical assistance.

31 (4) The licensee shall clarify, through the disclosure form, the
32 assistance with activities of daily living that may be provided, and
33 any limitations or conditions that may apply. The licensee shall also
34 clarify through the disclosure form any additional services that may be
35 provided.

36 (5) In providing assistance with activities of daily living, the
37 (~~(boarding-home)~~) assisted living facility shall observe the resident

1 for changes in overall functioning and respond appropriately when there
2 are observable or reported changes in the resident's physical, mental,
3 or emotional functioning.

4 **Sec. 21.** RCW 18.20.320 and 2004 c 142 s 4 are each amended to read
5 as follows:

6 (1) The ((~~boarding home~~)) assisted living facility licensee may
7 choose to provide any of the following health support services,
8 however, the facility may or may not need to provide additional health
9 support services to comply with the reasonable accommodation
10 requirements in federal or state law:

- 11 (a) Blood glucose testing;
- 12 (b) Puree diets;
- 13 (c) Calorie controlled diabetic diets;
- 14 (d) Dementia care;
- 15 (e) Mental health care; and
- 16 (f) Developmental disabilities care.

17 (2) The licensee shall clarify on the disclosure form any
18 limitations, additional services, or conditions that may apply.

19 (3) In providing health support services, the ((~~boarding home~~))
20 assisted living facility shall observe the resident for changes in
21 overall functioning and respond appropriately when there are observable
22 or reported changes in the resident's physical, mental, or emotional
23 functioning.

24 **Sec. 22.** RCW 18.20.330 and 2004 c 142 s 5 are each amended to read
25 as follows:

26 (1) ((~~Boarding homes~~)) Assisted living facilities are not required
27 to provide intermittent nursing services. The ((~~boarding home~~))
28 assisted living facility licensee may choose to provide any of the
29 following intermittent nursing services through appropriately licensed
30 and credentialed staff, however, the facility may or may not need to
31 provide additional intermittent nursing services to comply with the
32 reasonable accommodation requirements in federal or state law:

- 33 (a) Medication administration;
- 34 (b) Administration of health care treatments;
- 35 (c) Diabetic management;
- 36 (d) Nonroutine ostomy care;

1 (e) Tube feeding; and

2 (f) Nurse delegation consistent with chapter 18.79 RCW.

3 (2) The licensee shall clarify on the disclosure form any
4 limitations, additional services, or conditions that may apply under
5 this section.

6 (3) In providing intermittent nursing services, the ((boarding
7 home)) assisted living facility shall observe the resident for changes
8 in overall functioning and respond appropriately when there are
9 observable or reported changes in the resident's physical, mental, or
10 emotional functioning.

11 (4) The ((boarding-home)) assisted living facility may provide
12 intermittent nursing services to the extent permitted by RCW 18.20.160.

13 **Sec. 23.** RCW 18.20.340 and 2004 c 142 s 6 are each amended to read
14 as follows:

15 (1) ((A boarding-home)) An assisted living facility licensee may
16 permit a resident's family member to administer medications or
17 treatments or to provide medication or treatment assistance to the
18 resident. The licensee shall disclose to the department, residents,
19 the residents' legal representative if any, and if not, the residents'
20 representative if any, and to interested consumers upon request,
21 information describing whether the licensee permits such family
22 administration or assistance and, if so, the extent of limitations or
23 conditions thereof.

24 (2) If ((a boarding-home)) an assisted living facility licensee
25 permits a resident's family member to administer medications or
26 treatments or to provide medication or treatment assistance, the
27 licensee shall request that the family member submit to the licensee a
28 written medication or treatment plan. At a minimum, the written
29 medication or treatment plan shall identify:

30 (a) By name, the family member who will administer the medication
31 or treatment or provide assistance therewith;

32 (b) The medication or treatment administration or assistance that
33 the family member will provide consistent with subsection (1) of this
34 section. This will be referred to as the primary plan;

35 (c) An alternate plan that will meet the resident's medication or
36 treatment needs if the family member is unable to fulfill his or her
37 duties as specified in the primary plan; and

1 (d) An emergency contact person and telephone number if the
2 (~~boarding home~~) assisted living facility licensee observes changes in
3 the resident's overall functioning or condition that may relate to the
4 medication or treatment plan.

5 (3) The (~~boarding home~~) assisted living facility licensee may
6 require that the primary or alternate medication or treatment plan
7 include other information in addition to that specified in subsection
8 (2) of this section.

9 (4) The medication or treatment plan shall be signed and dated by:

10 (a) The resident, if able;

11 (b) The resident's legal representative, if any, and, if not, the
12 resident's representative, if any;

13 (c) The resident's family member; and

14 (d) The (~~boarding home~~) assisted living facility licensee.

15 (5) The (~~boarding home~~) assisted living facility may through
16 policy or procedure require the resident's family member to immediately
17 notify the (~~boarding home~~) assisted living facility licensee of any
18 change in the primary or alternate medication or treatment plan.

19 (6) When (~~a boarding home~~) an assisted living facility licensee
20 permits residents' family members to assist with or administer
21 medications or treatments, the licensee's duty of care, and any
22 negligence that may be attributed thereto, shall be limited to:
23 Observation of the resident for changes in overall functioning
24 consistent with RCW 18.20.280; notification to the person or persons
25 identified in RCW 70.129.030 when there are observed changes in the
26 resident's overall functioning or condition, or when the (~~boarding
27 home~~) assisted living facility is aware that both the primary and
28 alternate plan are not implemented; and appropriately responding to
29 obtain needed assistance when there are observable or reported changes
30 in the resident's physical or mental functioning.

31 **Sec. 24.** RCW 18.20.350 and 2008 c 146 s 3 are each amended to read
32 as follows:

33 (1) The (~~boarding home~~) assisted living facility licensee shall
34 conduct a preadmission assessment for each resident applicant. The
35 preadmission assessment shall include the following information, unless
36 unavailable despite the best efforts of the licensee:

37 (a) Medical history;

- 1 (b) Necessary and contraindicated medications;
- 2 (c) A licensed medical or health professional's diagnosis, unless
- 3 the individual objects for religious reasons;
- 4 (d) Significant known behaviors or symptoms that may cause concern
- 5 or require special care;
- 6 (e) Mental illness diagnosis, except where protected by
- 7 confidentiality laws;
- 8 (f) Level of personal care needs;
- 9 (g) Activities and service preferences; and
- 10 (h) Preferences regarding other issues important to the resident
- 11 applicant, such as food and daily routine.

12 (2) The ((~~boarding home~~)) assisted living facility licensee shall
13 complete the preadmission assessment before admission unless there is
14 an emergency. If there is an emergency admission, the preadmission
15 assessment shall be completed within five days of the date of
16 admission. For purposes of this section, "emergency" includes, but is
17 not limited to: Evening, weekend, or Friday afternoon admissions if
18 the resident applicant would otherwise need to remain in an unsafe
19 setting or be without adequate and safe housing.

20 (3) The ((~~boarding home~~)) assisted living facility licensee shall
21 complete an initial resident service plan upon move-in to identify the
22 resident's immediate needs and to provide direction to staff and
23 caregivers relating to the resident's immediate needs. The initial
24 resident service plan shall include as much information as can be
25 obtained, under subsection (1) of this section.

26 (4) When a facility provides respite care, before or at the time of
27 admission, the facility must obtain sufficient information to meet the
28 individual's anticipated needs. At a minimum, such information must
29 include:

30 (a) The name, address, and telephone number of the individual's
31 attending physician, and alternate physician if any;

32 (b) Medical and social history, which may be obtained from a
33 respite care assessment and service plan performed by a case manager
34 designated by an area agency on aging under contract with the
35 department, and mental and physical assessment data;

36 (c) Physician's orders for diet, medication, and routine care
37 consistent with the individual's status on admission;

1 (d) Ensure the individuals have assessments performed, where
2 needed, and where the assessment of the individual reveals symptoms of
3 tuberculosis, follow required tuberculosis testing requirements; and

4 (e) With the participation of the individual and, where
5 appropriate, their representative, develop a plan of care to maintain
6 or improve their health and functional status during their stay in the
7 facility.

8 **Sec. 25.** RCW 18.20.360 and 2004 c 142 s 8 are each amended to read
9 as follows:

10 (1) The ((~~boarding-home~~)) assisted living facility licensee shall
11 within fourteen days of the resident's date of move-in, unless extended
12 by the department for good cause, and thereafter at least annually,
13 complete a full reassessment addressing the following:

14 (a) The individual's recent medical history, including, but not
15 limited to: A health professional's diagnosis, unless the resident
16 objects for religious reasons; chronic, current, and potential skin
17 conditions; known allergies to foods or medications; or other
18 considerations for providing care or services;

19 (b) Current necessary and contraindicated medications and
20 treatments for the individual, including:

21 (i) Any prescribed medications and over-the-counter medications
22 that are commonly taken by the individual, and that the individual is
23 able to independently self-administer or safely and accurately direct
24 others to administer to him or her;

25 (ii) Any prescribed medications and over-the-counter medications
26 that are commonly taken by the individual and that the individual is
27 able to self-administer when he or she has the assistance of a
28 resident-care staff person; and

29 (iii) Any prescribed medications and over-the-counter medications
30 that are commonly taken by the individual and that the individual is
31 not able to self-administer;

32 (c) The individual's nursing needs when the individual requires the
33 services of a nurse on the ((~~boarding-home~~)) assisted living facility
34 premises;

35 (d) The individual's sensory abilities, including vision and
36 hearing;

1 (e) The individual's communication abilities, including modes of
2 expression, ability to make himself or herself understood, and ability
3 to understand others;

4 (f) Significant known behaviors or symptoms of the individual
5 causing concern or requiring special care, including: History of
6 substance abuse; history of harming self, others, or property, or other
7 conditions that may require behavioral intervention strategies; the
8 individual's ability to leave the ((~~boarding home~~)) assisted living
9 facility unsupervised; and other safety considerations that may pose a
10 danger to the individual or others, such as use of medical devices or
11 the individual's ability to smoke unsupervised, if smoking is permitted
12 in the ((~~boarding home~~)) assisted living facility;

13 (g) The individual's special needs, by evaluating available
14 information, or selecting and using an appropriate tool to determine
15 the presence of symptoms consistent with, and implications for care and
16 services of: Mental illness, or needs for psychological or mental
17 health services, except where protected by confidentiality laws;
18 developmental disability; dementia; or other conditions affecting
19 cognition, such as traumatic brain injury;

20 (h) The individual's level of personal care needs, including:
21 Ability to perform activities of daily living; medication management
22 ability, including the individual's ability to obtain and appropriately
23 use over-the-counter medications; and how the individual will obtain
24 prescribed medications for use in the ((~~boarding home~~)) assisted living
25 facility;

26 (i) The individual's activities, typical daily routines, habits,
27 and service preferences;

28 (j) The individual's personal identity and lifestyle, to the extent
29 the individual is willing to share the information, and the manner in
30 which they are expressed, including preferences regarding food,
31 community contacts, hobbies, spiritual preferences, or other sources of
32 pleasure and comfort; and

33 (k) Who has decision-making authority for the individual,
34 including: The presence of any advance directive, or other legal
35 document that will establish a substitute decision maker in the future;
36 the presence of any legal document that establishes a current
37 substitute decision maker; and the scope of decision-making authority
38 of any substitute decision maker.

1 (3) When the resident or the resident's legal representative
2 independently arranges for outside services under subsection (1) of
3 this section, the licensee's duty of care, and any negligence that may
4 be attributed thereto, shall be limited to: The responsibilities
5 described under subsection (4) of this section, excluding supervising
6 the activities of the outside service provider; observation of the
7 resident for changes in overall functioning, consistent with RCW
8 18.20.280; notification to the person or persons identified in RCW
9 70.129.030 when there are observed changes in the resident's overall
10 functioning or condition; and appropriately responding to obtain needed
11 assistance when there are observable or reported changes in the
12 resident's physical or mental functioning.

13 (4) Consistent with RCW 18.20.280, the (~~boarding-home~~) assisted
14 living facility licensee shall not be responsible for supervising the
15 activities of the outside service provider. When information sharing
16 is authorized by the resident or the resident's legal representative,
17 the licensee shall request such information and integrate relevant
18 information from the outside service provider into the resident's
19 negotiated service agreement, only to the extent that such information
20 is actually shared with the licensee.

21 **Sec. 28.** RCW 18.20.390 and 2006 c 209 s 3 are each amended to read
22 as follows:

23 (1) To ensure the proper delivery of services and the maintenance
24 and improvement in quality of care through self-review, any (~~boarding~~
25 ~~home~~) assisted living facility licensed under this chapter may
26 maintain a quality assurance committee that, at a minimum, includes:

- 27 (a) A licensed registered nurse under chapter 18.79 RCW;
- 28 (b) The administrator; and
- 29 (c) Three other members from the staff of the (~~boarding-home~~)
30 assisted living facility.

31 (2) When established, the quality assurance committee shall meet at
32 least quarterly to identify issues that may adversely affect quality of
33 care and services to residents and to develop and implement plans of
34 action to correct identified quality concerns or deficiencies in the
35 quality of care provided to residents.

36 (3) To promote quality of care through self-review without the fear
37 of reprisal, and to enhance the objectivity of the review process, the

1 department shall not require, and the long-term care ombudsman program
2 shall not request, disclosure of any quality assurance committee
3 records or reports, unless the disclosure is related to the committee's
4 compliance with this section, if:

5 (a) The records or reports are not maintained pursuant to statutory
6 or regulatory mandate; and

7 (b) The records or reports are created for and collected and
8 maintained by the committee.

9 (4) If the ((~~boarding home~~)) assisted living facility refuses to
10 release records or reports that would otherwise be protected under this
11 section, the department may then request only that information that is
12 necessary to determine whether the ((~~boarding home~~)) assisted living
13 facility has a quality assurance committee and to determine that it is
14 operating in compliance with this section. However, if the ((~~boarding~~
15 ~~home~~)) assisted living facility offers the department documents
16 generated by, or for, the quality assurance committee as evidence of
17 compliance with ((~~boarding—home~~)) assisted living facility
18 requirements, the documents are protected as quality assurance
19 committee documents under subsections (6) and (8) of this section when
20 in the possession of the department. The department is not liable for
21 an inadvertent disclosure, a disclosure related to a required federal
22 or state audit, or disclosure of documents incorrectly marked as
23 quality assurance committee documents by the facility.

24 (5) Good faith attempts by the committee to identify and correct
25 quality deficiencies shall not be used as a basis for sanctions.

26 (6) Information and documents, including the analysis of complaints
27 and incident reports, created specifically for, and collected and
28 maintained by, a quality assurance committee are not subject to
29 discovery or introduction into evidence in any civil action, and no
30 person who was in attendance at a meeting of such committee or who
31 participated in the creation, collection, or maintenance of information
32 or documents specifically for the committee shall be permitted or
33 required to testify as to the content of such proceedings or the
34 documents and information prepared specifically for the committee.
35 This subsection does not preclude:

36 (a) In any civil action, the discovery of the identity of persons
37 involved in the care that is the basis of the civil action whose

1 involvement was independent of any quality improvement committee
2 activity;

3 (b) In any civil action, the testimony of any person concerning the
4 facts which form the basis for the institution of such proceedings of
5 which the person had personal knowledge acquired independently of their
6 participation in the quality assurance committee activities.

7 (7) A quality assurance committee under subsection (1) of this
8 section, RCW 70.41.200, 74.42.640, 4.24.250, or 43.70.510 may share
9 information and documents, including the analysis of complaints and
10 incident reports, created specifically for, and collected and
11 maintained by, the committee, with one or more other quality assurance
12 committees created under subsection (1) of this section, RCW 70.41.200,
13 74.42.640, 4.24.250, or 43.70.510 for the improvement of the quality of
14 care and services rendered to (~~boarding-home~~) assisted living
15 facility residents. Information and documents disclosed by one quality
16 assurance committee to another quality assurance committee and any
17 information and documents created or maintained as a result of the
18 sharing of information and documents shall not be subject to the
19 discovery process and confidentiality shall be respected as required by
20 subsections (6) and (8) of this section, RCW 43.70.510(4),
21 70.41.200(3), 4.24.250(1), and 74.42.640 (7) and (9). The privacy
22 protections of chapter 70.02 RCW and the federal health insurance
23 portability and accountability act of 1996 and its implementing
24 regulations apply to the sharing of individually identifiable patient
25 information held by a coordinated quality improvement program. Any
26 rules necessary to implement this section shall meet the requirements
27 of applicable federal and state privacy laws.

28 (8) Information and documents, including the analysis of complaints
29 and incident reports, created specifically for, and collected and
30 maintained by, a quality assurance committee are exempt from disclosure
31 under chapter 42.56 RCW.

32 (9) Notwithstanding any records created for the quality assurance
33 committee, the facility shall fully set forth in the resident's
34 records, available to the resident, the department, and others as
35 permitted by law, the facts concerning any incident of injury or loss
36 to the resident, the steps taken by the facility to address the
37 resident's needs, and the resident outcome.

1 **Sec. 29.** RCW 18.20.400 and 2004 c 144 s 4 are each amended to read
2 as follows:

3 If during an inspection, reinspection, or complaint investigation
4 by the department, (~~(a boarding home)~~) an assisted living facility
5 corrects a violation or deficiency that the department discovers, the
6 department shall record and consider such violation or deficiency for
7 purposes of the facility's compliance history, however the licensor or
8 complaint investigator shall not include in the facility report the
9 violation or deficiency if the violation or deficiency:

10 (1) Is corrected to the satisfaction of the department prior to the
11 exit conference;

12 (2) Is not recurring; and

13 (3) Did not pose a significant risk of harm or actual harm to a
14 resident.

15 For the purposes of this section, "recurring" means that the
16 violation or deficiency was found under the same regulation or statute
17 in one of the two most recent preceding inspections, reinspections, or
18 complaint investigations.

19 **Sec. 30.** RCW 18.20.410 and 2005 c 505 s 1 are each amended to read
20 as follows:

21 The department of health, the department, and the building code
22 council shall develop standards for small (~~(boarding homes)~~) assisted
23 living facilities between seven and sixteen beds that address at least
24 the following issues:

25 (1) Domestic food refrigeration and freezer storage;

26 (2) Sinks and sink placement;

27 (3) Dishwashers;

28 (4) Use of heat supplements for water temperature in clothes
29 washers;

30 (5) Yard shrubbery;

31 (6) Number of janitorial rooms in a facility;

32 (7) Number and cross-purpose of dirty rooms;

33 (8) Instant hot water faucets;

34 (9) Medication refrigeration; and

35 (10) Walled and gated facilities.

36 Based on the standards developed under this section, the department
37 of health and the building code council shall study the risks and

1 benefits of modifying and simplifying construction and equipment
2 standards for ((boarding homes)) assisted living facilities with a
3 capacity of seven to sixteen persons. The study shall include
4 coordination with the department. The department of health shall
5 report its findings and recommendations to appropriate committees of
6 the legislature no later than December 1, 2005.

7 **Sec. 31.** RCW 18.20.420 and 2007 c 162 s 1 are each amended to read
8 as follows:

9 (1) If the department determines that the health, safety, or
10 welfare of residents is immediately jeopardized by ((a boarding
11 home's)) an assisted living facility's failure or refusal to comply
12 with the requirements of this chapter or the rules adopted under this
13 chapter, and the department summarily suspends the ((boarding home))
14 assisted living facility license, the department may appoint a
15 temporary manager of the ((boarding home)) assisted living facility, or
16 the licensee may, subject to the department's approval, voluntarily
17 participate in the temporary management program.

18 The purposes of the temporary management program are as follows:

19 (a) To mitigate dislocation and transfer trauma of residents while
20 the department and licensee may pursue dispute resolution or appeal of
21 a summary suspension of license;

22 (b) To facilitate the continuity of safe and appropriate resident
23 care and services;

24 (c) To protect the health, safety, and welfare of residents, by
25 providing time for an orderly closure of the ((boarding home)) assisted
26 living facility, or for the deficiencies that necessitated temporary
27 management to be corrected; and

28 (d) To preserve a residential option that meets a specialized
29 service need or is in a geographical area that has a lack of available
30 providers.

31 (2) The department may recruit, approve, and appoint qualified
32 individuals, partnerships, corporations, and other entities interested
33 in serving as a temporary manager of ((a boarding home)) an assisted
34 living facility. These individuals and entities shall satisfy the
35 criteria established under this chapter or by the department for
36 approving licensees. The department shall not approve or appoint any
37 person, including partnerships and other entities, if that person is

1 affiliated with the (~~boarding home~~) assisted living facility subject
2 to the temporary management, or has owned or operated (~~a boarding~~
3 ~~home~~) an assisted living facility ordered into temporary management or
4 receivership in any state. When approving or appointing a temporary
5 manager, the department shall consider the temporary manager's past
6 experience in long-term care, the quality of care provided, the
7 temporary manager's availability, and the person's familiarity with
8 applicable state and federal laws. Subject to the provisions of this
9 section and RCW 18.20.430, the department's authority to approve or
10 appoint a temporary manager is discretionary and not subject to the
11 administrative procedure act, chapter 34.05 RCW.

12 (3) When the department appoints a temporary manager, the
13 department shall enter into a contract with the temporary manager and
14 shall order the licensee to cease operating the (~~boarding home~~)
15 assisted living facility and immediately turn over to the temporary
16 manager possession and control of the (~~boarding home~~) assisted living
17 facility, including but not limited to all resident care records,
18 financial records, and other records necessary for operation of the
19 facility while temporary management is in effect. If the department
20 has not appointed a temporary manager and the licensee elects to
21 participate in the temporary management program, the licensee shall
22 select the temporary manager, subject to the department's approval, and
23 enter into a contract with the temporary manager, consistent with this
24 section. The department has the discretion to approve or revoke any
25 temporary management arrangements made by the licensee.

26 (4) When the department appoints a temporary manager, the costs
27 associated with the temporary management may be paid for through the
28 (~~boarding home~~) assisted living facility temporary management account
29 established by RCW 18.20.430, or from other departmental funds, or a
30 combination thereof. All funds must be administered according to
31 department procedures. The department may enter into an agreement with
32 the licensee allowing the licensee to pay for some of the costs
33 associated with a temporary manager appointed by the department. If
34 the department has not appointed a temporary manager and the licensee
35 elects to participate in the temporary management program, the licensee
36 is responsible for all costs related to administering the temporary
37 management program at the (~~boarding home~~) assisted living facility
38 and contracting with the temporary manager.

1 (5) The temporary manager shall assume full responsibility for the
2 daily operations of the ((~~boarding home~~)) assisted living facility and
3 is responsible for correcting cited deficiencies and ensuring that all
4 minimum licensing requirements are met. The temporary manager must
5 comply with all state and federal laws and regulations applicable to
6 ((~~boarding homes~~)) assisted living facilities. The temporary manager
7 shall protect the health, safety, and welfare of the residents for the
8 duration of the temporary management and shall perform all acts
9 reasonably necessary to ensure residents' needs are met. The temporary
10 management contract shall address the responsibility of the temporary
11 manager to pay past due debts. The temporary manager's specific
12 responsibilities may include, but are not limited to:

13 (a) Receiving and expending in a prudent and business-like manner
14 all current revenues of the ((~~boarding home~~)) assisted living facility,
15 provided that priority is given to debts and expenditures directly
16 related to providing care and meeting residents' needs;

17 (b) Hiring and managing all consultants and employees and firing
18 them for good cause;

19 (c) Making necessary purchases, repairs, and replacements, provided
20 that such expenditures in excess of five thousand dollars by a
21 temporary manager appointed by the department must be approved by the
22 department;

23 (d) Entering into contracts necessary for the operation of the
24 ((~~boarding home~~)) assisted living facility;

25 (e) Preserving resident trust funds and resident records; and

26 (f) Preparing all department-required reports, including a detailed
27 monthly accounting of all expenditures and liabilities, which shall be
28 sent to the department and the licensee.

29 (6) The licensee and department shall provide written notification
30 immediately to all residents, resident representatives, interested
31 family members, and the state long-term care ombudsman program of the
32 temporary management and the reasons for it. This notification shall
33 include notice that residents may move from the ((~~boarding home~~))
34 assisted living facility without notifying the licensee or temporary
35 manager in advance, and without incurring any charges, fees, or costs
36 otherwise available for insufficient advance notice, during the
37 temporary management period. The notification shall also inform
38 residents and their families or representatives that the temporary

1 management team will provide residents help with relocation and
2 appropriate discharge planning and coordination if desired. The
3 department shall provide assistance with relocation to residents who
4 are department clients and may provide such assistance to other
5 residents. The temporary manager shall meet regularly with staff,
6 residents, residents' representatives, and families to inform them of
7 the plans for and progress achieved in the correction of deficiencies,
8 and of the plans for facility closure or continued operation.

9 (7) The department shall terminate temporary management:

10 (a) After sixty days unless good cause is shown to continue the
11 temporary management. Good cause for continuing the temporary
12 management exists when returning the ((~~boarding home~~)) assisted living
13 facility to its former licensee would subject residents to a threat to
14 health, safety, or welfare;

15 (b) When all residents are transferred and the ((~~boarding home~~))
16 assisted living facility is closed;

17 (c) When deficiencies threatening residents' health, safety, or
18 welfare are eliminated and the former licensee agrees to
19 department-specified conditions regarding the continued facility
20 operation; or

21 (d) When a new licensee assumes control of the ((~~boarding home~~))
22 assisted living facility.

23 Nothing in this section precludes the department from revoking its
24 approval of the temporary management or exercising its licensing
25 enforcement authority under this chapter. The department's decision
26 whether to approve or to revoke a temporary management arrangement is
27 not subject to the administrative procedure act, chapter 34.05 RCW.

28 (8) The department shall indemnify, defend, and hold harmless any
29 temporary manager appointed or approved under this section against
30 claims made against the temporary manager for any actions by the
31 temporary manager or its agents that do not amount to intentional torts
32 or criminal behavior.

33 (9) The department may adopt rules implementing this section. In
34 the development of rules or policies implementing this section, the
35 department shall consult with residents and their representatives,
36 resident advocates, financial professionals, ((~~boarding home~~)) assisted
37 living facility providers, and organizations representing ((~~boarding~~
38 ~~homes~~)) assisted living facilities.

1 **Sec. 32.** RCW 18.20.430 and 2007 c 162 s 2 are each amended to read
2 as follows:

3 The ((~~boarding home~~)) assisted living facility temporary management
4 account is created in the custody of the state treasurer. All receipts
5 from civil penalties imposed under this chapter must be deposited into
6 the account. Only the director or the director's designee may
7 authorize expenditures from the account. The account is subject to
8 allotment procedures under chapter 43.88 RCW, but an appropriation is
9 not required for expenditures. Expenditures from the account may be
10 used only for the protection of the health, safety, welfare, or
11 property of residents of ((~~boarding homes~~)) assisted living facilities
12 found to be deficient. Uses of the account include, but are not
13 limited to:

14 (1) Payment for the costs of relocation of residents to other
15 facilities;

16 (2) Payment to maintain operation of ((~~a boarding home~~)) an
17 assisted living facility pending correction of deficiencies or closure,
18 including payment of costs associated with temporary management
19 authorized under this chapter; and

20 (3) Reimbursement of residents for personal funds or property lost
21 or stolen when the resident's personal funds or property cannot be
22 recovered from the ((~~boarding home~~)) assisted living facility or third-
23 party insurer.

24 **Sec. 33.** RCW 18.20.440 and 2008 c 251 s 1 are each amended to read
25 as follows:

26 (1) If ((~~a boarding home~~)) an assisted living facility voluntarily
27 withdraws from participation in a state medicaid program for
28 residential care and services under chapter 74.39A RCW, but continues
29 to provide services of the type provided by ((~~boarding homes~~)) assisted
30 living facilities, the facility's voluntary withdrawal from
31 participation is not an acceptable basis for the transfer or discharge
32 of residents of the facility (a) who were receiving medicaid on the day
33 before the effective date of the withdrawal; or (b) who have been
34 paying the facility privately for at least two years and who become
35 eligible for medicaid within one hundred eighty days of the date of
36 withdrawal.

1 (2) (~~(A boarding home)~~) An assisted living facility that has
2 withdrawn from the state medicaid program for residential care and
3 services under chapter 74.39A RCW must provide the following oral and
4 written notices to prospective residents. The written notice must be
5 prominent and must be written on a page that is separate from the other
6 admission documents. The notice shall provide that:

7 (a) The facility will not participate in the medicaid program with
8 respect to that resident; and

9 (b) The facility may transfer or discharge the resident from the
10 facility for nonpayment, even if the resident becomes eligible for
11 medicaid.

12 (3) Notwithstanding any other provision of this section, the
13 medicaid contract under chapter 74.39A RCW that exists on the day the
14 facility withdraws from medicaid participation is deemed to continue in
15 effect as to the persons described in subsection (1) of this section
16 for the purposes of:

17 (a) Department payments for the residential care and services
18 provided to such persons;

19 (b) Maintaining compliance with all requirements of the medicaid
20 contract between the department and the facility; and

21 (c) Ongoing inspection, contracting, and enforcement authority
22 under the medicaid contract, regulations, and law.

23 (4) Except as provided in subsection (1) of this section, this
24 section shall not apply to a person who begins residence in a facility
25 on or after the effective date of the facility's withdrawal from
26 participation in the medicaid program for residential care and
27 services.

28 (5) (~~(A boarding home)~~) An assisted living facility that is
29 providing residential care and services under chapter 74.39A RCW shall
30 give the department and its residents sixty days' advance notice of the
31 facility's intent to withdraw from participation in the medicaid
32 program.

33 (6) Prior to admission to the facility, (~~(a boarding home)~~) an
34 assisted living facility participating in the state medicaid program
35 for residential care and services under chapter 74.39A RCW must provide
36 the following oral and written notices to prospective residents. The
37 written notice must be prominent and must be written on a page that is
38 separate from the other admission documents, and must provide that:

1 (a) In the future, the facility may choose to withdraw from
2 participating in the medicaid program;

3 (b) If the facility withdraws from the medicaid program, it will
4 continue to provide services to residents (i) who were receiving
5 medicaid on the day before the effective date of the withdrawal; or
6 (ii) who have been paying the facility privately for at least two years
7 and who will become eligible for medicaid within one hundred eighty
8 days of the date of withdrawal;

9 (c) After a facility withdraws from the medicaid program, it may
10 transfer or discharge residents who do not meet the criteria described
11 in this section for nonpayment, even if the resident becomes eligible
12 for medicaid.

13 **Sec. 34.** RCW 18.20.900 and 1957 c 253 s 20 are each amended to
14 read as follows:

15 If any part, or parts, of this chapter shall be held
16 unconstitutional, the remaining provisions shall be given full force
17 and effect, as completely as if the part held unconstitutional had not
18 been included herein, if any such remaining part can then be
19 administered for the purpose of establishing and maintaining standards
20 for (~~boarding homes~~) assisted living facilities.

21 **Sec. 35.** RCW 18.51.010 and 1983 c 236 s 1 are each amended to read
22 as follows:

23 (1) "Nursing home" means any home, place or institution which
24 operates or maintains facilities providing convalescent or chronic
25 care, or both, for a period in excess of twenty-four consecutive hours
26 for three or more patients not related by blood or marriage to the
27 operator, who by reason of illness or infirmity, are unable properly to
28 care for themselves. Convalescent and chronic care may include but not
29 be limited to any or all procedures commonly employed in waiting on the
30 sick, such as administration of medicines, preparation of special
31 diets, giving of bedside nursing care, application of dressings and
32 bandages, and carrying out of treatment prescribed by a duly licensed
33 practitioner of the healing arts. It may also include care of mentally
34 incompetent persons. It may also include community-based care.
35 Nothing in this definition shall be construed to include general
36 hospitals or other places which provide care and treatment for the

1 acutely ill and maintain and operate facilities for major surgery or
2 obstetrics, or both. Nothing in this definition shall be construed to
3 include any (~~boarding home~~) assisted living facility, guest home,
4 hotel or related institution which is held forth to the public as
5 providing, and which is operated to give only board, room and laundry
6 to persons not in need of medical or nursing treatment or supervision
7 except in the case of temporary acute illness. The mere designation by
8 the operator of any place or institution as a hospital, sanitarium, or
9 any other similar name, which does not provide care for the acutely ill
10 and maintain and operate facilities for major surgery or obstetrics, or
11 both, shall not exclude such place or institution from the provisions
12 of this chapter: PROVIDED, That any nursing home providing psychiatric
13 treatment shall, with respect to patients receiving such treatment,
14 comply with the provisions of RCW 71.12.560 and 71.12.570.

15 (2) "Person" means any individual, firm, partnership, corporation,
16 company, association, or joint stock association, and the legal
17 successor thereof.

18 (3) "Secretary" means the secretary of the department of social and
19 health services.

20 (4) "Department" means the state department of social and health
21 services.

22 (5) "Community-based care" means but is not limited to the
23 following:

24 (a) Home delivered nursing services;

25 (b) Personal care;

26 (c) Day care;

27 (d) Nutritional services, both in-home and in a communal dining
28 setting;

29 (e) Habilitation care; and

30 (f) Respite care.

31 **Sec. 36.** RCW 18.52C.020 and 2001 c 319 s 3 are each amended to
32 read as follows:

33 Unless the context clearly requires otherwise, the definitions in
34 this section apply throughout this chapter.

35 (1) "Secretary" means the secretary of the department of health.

36 (2) "Health care facility" means a nursing home, hospital, hospice
37 care facility, home health care agency, hospice agency, (~~boarding~~

1 home)) assisted living facility, group home, or other entity for the
2 delivery of health care or long-term care services, including chore
3 services provided under chapter 74.39A RCW.

4 (3) "Nursing home" means any nursing home facility licensed
5 pursuant to chapter 18.52 RCW.

6 (4) "Nursing pool" means any person engaged in the business of
7 providing, procuring, or referring health care or long-term care
8 personnel for temporary employment in health care facilities, such as
9 licensed nurses or practical nurses, nursing assistants, and chore
10 service providers. "Nursing pool" does not include an individual who
11 only engages in providing his or her own services.

12 (5) "Person" includes an individual, firm, corporation,
13 partnership, or association.

14 (6) "Adult family home" means a residential home licensed pursuant
15 to chapter 70.128 RCW.

16 **Sec. 37.** RCW 18.79.260 and 2009 c 203 s 1 are each amended to read
17 as follows:

18 (1) A registered nurse under his or her license may perform for
19 compensation nursing care, as that term is usually understood, to
20 individuals with illnesses, injuries, or disabilities.

21 (2) A registered nurse may, at or under the general direction of a
22 licensed physician and surgeon, dentist, osteopathic physician and
23 surgeon, naturopathic physician, optometrist, podiatric physician and
24 surgeon, physician assistant, osteopathic physician assistant, or
25 advanced registered nurse practitioner acting within the scope of his
26 or her license, administer medications, treatments, tests, and
27 inoculations, whether or not the severing or penetrating of tissues is
28 involved and whether or not a degree of independent judgment and skill
29 is required. Such direction must be for acts which are within the
30 scope of registered nursing practice.

31 (3) A registered nurse may delegate tasks of nursing care to other
32 individuals where the registered nurse determines that it is in the
33 best interest of the patient.

34 (a) The delegating nurse shall:

35 (i) Determine the competency of the individual to perform the
36 tasks;

37 (ii) Evaluate the appropriateness of the delegation;

1 (iii) Supervise the actions of the person performing the delegated
2 task; and

3 (iv) Delegate only those tasks that are within the registered
4 nurse's scope of practice.

5 (b) A registered nurse, working for a home health or hospice agency
6 regulated under chapter 70.127 RCW, may delegate the application,
7 instillation, or insertion of medications to a registered or certified
8 nursing assistant under a plan of care.

9 (c) Except as authorized in (b) or (e) of this subsection, a
10 registered nurse may not delegate the administration of medications.
11 Except as authorized in (e) of this subsection, a registered nurse may
12 not delegate acts requiring substantial skill, and may not delegate
13 piercing or severing of tissues. Acts that require nursing judgment
14 shall not be delegated.

15 (d) No person may coerce a nurse into compromising patient safety
16 by requiring the nurse to delegate if the nurse determines that it is
17 inappropriate to do so. Nurses shall not be subject to any employer
18 reprisal or disciplinary action by the nursing care quality assurance
19 commission for refusing to delegate tasks or refusing to provide the
20 required training for delegation if the nurse determines delegation may
21 compromise patient safety.

22 (e) For delegation in community-based care settings or in-home care
23 settings, a registered nurse may delegate nursing care tasks only to
24 registered or certified nursing assistants. Simple care tasks such as
25 blood pressure monitoring, personal care service, diabetic insulin
26 device set up, verbal verification of insulin dosage for sight-impaired
27 individuals, or other tasks as defined by the nursing care quality
28 assurance commission are exempted from this requirement.

29 (i) "Community-based care settings" includes: Community
30 residential programs for people with developmental disabilities,
31 certified by the department of social and health services under chapter
32 71A.12 RCW; adult family homes licensed under chapter 70.128 RCW; and
33 (~~boarding homes~~) assisted living facilities licensed under chapter
34 18.20 RCW. Community-based care settings do not include acute care or
35 skilled nursing facilities.

36 (ii) "In-home care settings" include an individual's place of
37 temporary or permanent residence, but does not include acute care or

1 skilled nursing facilities, and does not include community-based care
2 settings as defined in (e)(i) of this subsection.

3 (iii) Delegation of nursing care tasks in community-based care
4 settings and in-home care settings is only allowed for individuals who
5 have a stable and predictable condition. "Stable and predictable
6 condition" means a situation in which the individual's clinical and
7 behavioral status is known and does not require the frequent presence
8 and evaluation of a registered nurse.

9 (iv) The determination of the appropriateness of delegation of a
10 nursing task is at the discretion of the registered nurse. Other than
11 delegation of the administration of insulin by injection for the
12 purpose of caring for individuals with diabetes, the administration of
13 medications by injection, sterile procedures, and central line
14 maintenance may never be delegated.

15 (v) When delegating insulin injections under this section, the
16 registered nurse delegator must instruct the individual regarding
17 proper injection procedures and the use of insulin, demonstrate proper
18 injection procedures, and must supervise and evaluate the individual
19 performing the delegated task weekly during the first four weeks of
20 delegation of insulin injections. If the registered nurse delegator
21 determines that the individual is competent to perform the injection
22 properly and safely, supervision and evaluation shall occur at least
23 every ninety days thereafter.

24 (vi) The registered nurse shall verify that the nursing assistant
25 has completed the required core nurse delegation training required in
26 chapter 18.88A RCW prior to authorizing delegation.

27 (vii) The nurse is accountable for his or her own individual
28 actions in the delegation process. Nurses acting within the protocols
29 of their delegation authority are immune from liability for any action
30 performed in the course of their delegation duties.

31 (viii) Nursing task delegation protocols are not intended to
32 regulate the settings in which delegation may occur, but are intended
33 to ensure that nursing care services have a consistent standard of
34 practice upon which the public and the profession may rely, and to
35 safeguard the authority of the nurse to make independent professional
36 decisions regarding the delegation of a task.

37 (f) The nursing care quality assurance commission may adopt rules
38 to implement this section.

1 (4) Only a person licensed as a registered nurse may instruct
2 nurses in technical subjects pertaining to nursing.

3 (5) Only a person licensed as a registered nurse may hold herself
4 or himself out to the public or designate herself or himself as a
5 registered nurse.

6 **Sec. 38.** RCW 18.100.140 and 1994 sp.s. c 9 s 717 are each amended
7 to read as follows:

8 Nothing in this chapter shall authorize a director, officer,
9 shareholder, agent or employee of a corporation organized under this
10 chapter, or a corporation itself organized under this chapter, to do or
11 perform any act which would be illegal, unethical or unauthorized
12 conduct under the provisions of the following acts: (1) Physicians and
13 surgeons, chapter 18.71 RCW; (2) anti-rebating act, chapter 19.68 RCW;
14 (3) state bar act, chapter 2.48 RCW; (4) professional accounting act,
15 chapter 18.04 RCW; (5) professional architects act, chapter 18.08 RCW;
16 (6) professional auctioneers act, chapter 18.11 RCW; (7)
17 cosmetologists, barbers, and manicurists, chapter 18.16 RCW; (8)
18 (~~boarding homes~~) assisted living facilities act, chapter 18.20 RCW;
19 (9) podiatric medicine and surgery, chapter 18.22 RCW; (10)
20 chiropractic act, chapter 18.25 RCW; (11) registration of contractors,
21 chapter 18.27 RCW; (12) debt adjusting act, chapter 18.28 RCW; (13)
22 dental hygienist act, chapter 18.29 RCW; (14) dentistry, chapter 18.32
23 RCW; (15) dispensing opticians, chapter 18.34 RCW; (16) naturopathic
24 physicians, chapter 18.36A RCW; (17) embalmers and funeral directors,
25 chapter 18.39 RCW; (18) engineers and land surveyors, chapter 18.43
26 RCW; (19) escrow agents registration act, chapter 18.44 RCW; (20)
27 (~~maternity homes~~) birthing centers, chapter 18.46 RCW; (21)
28 midwifery, chapter 18.50 RCW; (22) nursing homes, chapter 18.51 RCW;
29 (23) optometry, chapter 18.53 RCW; (24) osteopathic physicians and
30 surgeons, chapter 18.57 RCW; (25) pharmacists, chapter 18.64 RCW; (26)
31 physical therapy, chapter 18.74 RCW; (27) registered nurses, advanced
32 registered nurse practitioners, and practical nurses, chapter 18.79
33 RCW; (28) psychologists, chapter 18.83 RCW; (29) real estate brokers
34 and salesmen, chapter 18.85 RCW; (30) veterinarians, chapter 18.92 RCW.

35 **Sec. 39.** RCW 26.34.010 and 1971 ex.s. c 168 s 1 are each amended
36 to read as follows:

1 The interstate compact on the placement of children is hereby
2 enacted into law and entered into with all other jurisdictions legally
3 joining therein in form substantially as follows:

4 ARTICLE I. *Purpose and Policy*

5 It is the purpose and policy of the party states to cooperate with
6 each other in the interstate placement of children to the end that:

7 (a) Each child requiring placement shall receive the maximum
8 opportunity to be placed in a suitable environment and with persons or
9 institutions having appropriate qualifications and facilities to
10 provide a necessary and desirable degree and type of care.

11 (b) The appropriate authorities in a state where a child is to be
12 placed may have full opportunity to ascertain the circumstances of the
13 proposed placement, thereby promoting full compliance with applicable
14 requirements for the protection of the child.

15 (c) The proper authorities of the state from which the placement is
16 made may obtain the most complete information on the basis of which to
17 evaluate a projected placement before it is made.

18 (d) Appropriate jurisdictional arrangements for the care of
19 children will be promoted.

20 ARTICLE II. *Definitions*

21 As used in this compact:

22 (a) "Child" means a person who, by reason of minority, is legally
23 subject to parental, guardianship or similar control.

24 (b) "Sending agency" means a party state, officer or employee
25 thereof; a subdivision of a party state, or officer or employee
26 thereof; a court of a party state; a person, corporation, association,
27 charitable agency or other entity which sends, brings, or causes to be
28 sent or brought any child to another party state.

29 (c) "Receiving state" means the state to which a child is sent,
30 brought, or caused to be sent or brought, whether by public authorities
31 or private persons or agencies, and whether for placement with state or
32 local public authorities or for placement with private agencies or
33 persons.

34 (d) "Placement" means the arrangement for the care of a child in a
35 family free or (~~boarding-home~~) assisted living facility or in a
36 child-caring agency or institution but does not include any institution

1 caring for the (~~mentally ill~~) individuals with mental illness,
2 mentally defective, or epileptic or any institution primarily
3 educational in character, and any hospital or other medical facility.

4 ARTICLE III. *Conditions for Placement*

5 (a) No sending agency shall send, bring, or cause to be sent or
6 brought into any other party state any child for placement in foster
7 care or as a preliminary to a possible adoption unless the sending
8 agency shall comply with each and every requirement set forth in this
9 article and with the applicable laws of the receiving state governing
10 the placement of children therein.

11 (b) Prior to sending, bringing or causing any child to be sent or
12 brought into a receiving state for placement in foster care or as a
13 preliminary to a possible adoption, the sending agency shall furnish
14 the appropriate public authorities in the receiving state written
15 notice of the intention to send, bring, or place the child in the
16 receiving state. The notice shall contain:

17 (1) The name, date and place of birth of the child.

18 (2) The identity and address or addresses of the parents or legal
19 guardian.

20 (3) The name and address of the person, agency or institution to or
21 with which the sending agency proposes to send, bring, or place the
22 child.

23 (4) A full statement of the reasons for such proposed action and
24 evidence of the authority pursuant to which the placement is proposed
25 to be made.

26 (c) Any public officer or agency in a receiving state which is in
27 receipt of a notice pursuant to paragraph (b) of this article may
28 request of the sending agency, or any other appropriate officer or
29 agency of or in the sending agency's state, and shall be entitled to
30 receive therefrom, such supporting or additional information as it may
31 deem necessary under the circumstances to carry out the purpose and
32 policy of this compact.

33 (d) The child shall not be sent, brought, or caused to be sent or
34 brought into the receiving state until the appropriate public
35 authorities in the receiving state shall notify the sending agency, in
36 writing, to the effect that the proposed placement does not appear to
37 be contrary to the interests of the child.

1 ARTICLE IV. *Penalty for Illegal Placement*

2 The sending, bringing, or causing to be sent or brought into any
3 receiving state of a child in violation of the terms of this compact
4 shall constitute a violation of the laws respecting the placement of
5 children of both the state in which the sending agency is located or
6 from which it sends or brings the child and of the receiving state.
7 Such violation may be punished or subjected to penalty in either
8 jurisdiction in accordance with its laws. In addition to liability for
9 any such punishment or penalty, any such violation shall constitute
10 full and sufficient grounds for the suspension or revocation of any
11 license, permit, or other legal authorization held by the sending
12 agency which empowers or allows it to place, or care for children.

13 ARTICLE V. *Retention of Jurisdiction*

14 (a) The sending agency shall retain jurisdiction over the child
15 sufficient to determine all matters in relation to the custody,
16 supervision, care, treatment and disposition of the child which it
17 would have had if the child had remained in the sending agency's state,
18 until the child is adopted, reaches majority, becomes self-supporting
19 or is discharged with the concurrence of the appropriate authority in
20 the receiving state. Such jurisdiction shall also include the power to
21 effect or cause the return of the child or its transfer to another
22 location and custody pursuant to law. The sending agency shall
23 continue to have financial responsibility for support and maintenance
24 of the child during the period of the placement. Nothing contained
25 herein shall defeat a claim of jurisdiction by a receiving state
26 sufficient to deal with an act of delinquency or crime committed
27 therein.

28 (b) When the sending agency is a public agency, it may enter into
29 an agreement with an authorized public or private agency in the
30 receiving state providing for the performance of one or more services
31 in respect of such case by the latter as agent for the sending agency.

32 (c) Nothing in this compact shall be construed to prevent a private
33 charitable agency authorized to place children in the receiving state
34 from performing services or acting as agent in that state for a private
35 charitable agency of the sending state; nor to prevent the agency in
36 the receiving state from discharging financial responsibility for the

1 support and maintenance of a child who has been placed on behalf of the
2 sending agency without relieving the responsibility set forth in
3 paragraph (a) hereof.

4 ARTICLE VI. *Institutional Care of Delinquent Children*

5 A child adjudicated delinquent may be placed in an institution in
6 another party jurisdiction pursuant to this compact but no such
7 placement shall be made unless the child is given a court hearing on
8 notice to the parent or guardian with opportunity to be heard, prior to
9 his being sent to such other party jurisdiction for institutional care
10 and the court finds that:

- 11 (1) Equivalent facilities for the child are not available in the
12 sending agency's jurisdiction; and
- 13 (2) Institutional care in the other jurisdiction is in the best
14 interest of the child and will not produce undue hardship.

15 ARTICLE VII. *Compact Administrator*

16 The executive head of each jurisdiction party to this compact shall
17 designate an officer who shall be general coordinator of activities
18 under this compact in his jurisdiction and who, acting jointly with
19 like officers of other party jurisdictions, shall have power to
20 promulgate rules and regulations to carry out more effectively the
21 terms and provisions of this compact.

22 ARTICLE VIII. *Limitations*

- 23 This compact shall not apply to:
- 24 (a) The sending or bringing of a child into a receiving state by
25 his parent, stepparent, grandparent, adult brother or sister, adult
26 uncle or aunt, or his guardian and leaving the child with any such
27 relative or nonagency guardian in the receiving state.
 - 28 (b) Any placement, sending or bringing of a child into a receiving
29 state pursuant to any other interstate compact to which both the state
30 from which the child is sent or brought and the receiving state are
31 party, or to any other agreement between said states which has the
32 force of law.

33 ARTICLE IX. *Enactment and Withdrawal*

34 This compact shall be open to joinder by any state, territory or
35 possession of the United States, the District of Columbia, the
36 Commonwealth of Puerto Rico, and, with the consent of Congress, the

1 Government of Canada or any province thereof. It shall become
2 effective with respect to any such jurisdiction when such jurisdiction
3 has enacted the same into law. Withdrawal from this compact shall be
4 by the enactment of a statute repealing the same, but shall not take
5 effect until two years after the effective date of such statute and
6 until written notice of the withdrawal has been given by the
7 withdrawing state to the governor of each other party jurisdiction.
8 Withdrawal of a party state shall not affect the rights, duties and
9 obligations under this compact of any sending agency therein with
10 respect to a placement made prior to the effective date of withdrawal.

11 ARTICLE X. *Construction and Severability*

12 The provisions of this compact shall be liberally construed to
13 effectuate the purposes thereof. The provisions of this compact shall
14 be severable and if any phrase, clause, sentence or provision of this
15 compact is declared to be contrary to the constitution of any party
16 state or of the United States or the applicability thereof to any
17 government, agency, person or circumstance is held invalid, the
18 validity of the remainder of this compact and the applicability thereof
19 to any government, agency, person or circumstance shall not be affected
20 thereby. If this compact shall be held contrary to the constitution of
21 any state party thereto, the compact shall remain in full force and
22 effect as to the remaining states and in full force and effect as to
23 the state affected as to all severable matters.

24 **Sec. 40.** RCW 35.21.766 and 2005 c 482 s 2 are each amended to read
25 as follows:

26 (1) Whenever a regional fire protection service authority
27 determines that the fire protection jurisdictions that are members of
28 the authority are not adequately served by existing private ambulance
29 service, the governing board of the authority may by resolution provide
30 for the establishment of a system of ambulance service to be operated
31 by the authority as a public utility (~~((for))~~) or operated by contract
32 after a call for bids.

33 (2) The legislative authority of any city or town may establish an
34 ambulance service to be operated as a public utility. However, the
35 legislative authority of the city or town shall not provide for the
36 establishment of an ambulance service utility that would compete with
37 any existing private ambulance service, unless the legislative

1 authority of the city or town determines that the city or town, or a
2 substantial portion of the city or town, is not adequately served by an
3 existing private ambulance service. In determining the adequacy of an
4 existing private ambulance service, the legislative authority of the
5 city or town shall take into consideration objective generally accepted
6 medical standards and reasonable levels of service which shall be
7 published by the city or town legislative authority. The decision of
8 the city council or legislative body shall be a discretionary,
9 legislative act. When it is preliminarily concluded that the private
10 ambulance service is inadequate, before issuing a call for bids or
11 before the city or town establishes an ambulance service utility, the
12 legislative authority of the city or town shall allow a minimum of
13 sixty days for the private ambulance service to meet the generally
14 accepted medical standards and reasonable levels of service. In the
15 event of a second preliminary conclusion of inadequacy within a twenty-
16 four month period, the legislative authority of the city or town may
17 immediately issue a call for bids or establish an ambulance service
18 utility and is not required to afford the private ambulance service
19 another sixty-day period to meet the generally accepted medical
20 standards and reasonable levels of service. Nothing in chapter 482,
21 Laws of 2005 is intended to supersede requirements and standards
22 adopted by the department of health. A private ambulance service which
23 is not licensed by the department of health or whose license is denied,
24 suspended, or revoked shall not be entitled to a sixty-day period
25 within which to demonstrate adequacy and the legislative authority may
26 immediately issue a call for bids or establish an ambulance service
27 utility.

28 (3) The city or town legislative authority is authorized to set and
29 collect rates and charges in an amount sufficient to regulate, operate,
30 and maintain an ambulance utility. Prior to setting such rates and
31 charges, the legislative authority must determine, through a cost-of-
32 service study, the total cost necessary to regulate, operate, and
33 maintain the ambulance utility. Total costs shall not include capital
34 cost for the construction, major renovation, or major repair of the
35 physical plant. Once the legislative authority determines the total
36 costs, the legislative authority shall then identify that portion of
37 the total costs that are attributable to the availability of the

1 ambulance service and that portion of the total costs that are
2 attributable to the demand placed on the ambulance utility.

3 (a) Availability costs are those costs attributable to the basic
4 infrastructure needed to respond to a single call for service within
5 the utility's response criteria. Availability costs may include costs
6 for dispatch, labor, training of personnel, equipment, patient care
7 supplies, and maintenance of equipment.

8 (b) Demand costs are those costs that are attributable to the
9 burden placed on the ambulance service by individual calls for
10 ambulance service. Demand costs shall include costs related to
11 frequency of calls, distances from hospitals, and other factors
12 identified in the cost-of-service study conducted to assess burdens
13 imposed on the ambulance utility.

14 (4) A city or town legislative authority is authorized to set and
15 collect rates and charges as follows:

16 (a) The rate attributable to costs for availability described under
17 subsection (3)(a) of this section shall be uniformly applied across
18 user classifications within the utility;

19 (b) The rate attributable to costs for demand described under
20 subsection (3)(b) of this section shall be established and billed to
21 each utility user classification based on each user classification's
22 burden on the utility;

23 (c) The fee charged by the utility shall reflect a combination of
24 the availability cost and the demand cost;

25 (d)(i) Except as provided in (d)(ii) of this subsection, the
26 combined rates charged shall reflect an exemption for persons who are
27 medicaid eligible and who reside in a nursing facility, (~~boarding~~
28 ~~home~~) assisted living facility, adult family home, or receive in-home
29 services. The combined rates charged may reflect an exemption or
30 reduction for designated classes consistent with Article VIII, section
31 7 of the state Constitution. The amounts of exemption or reduction
32 shall be a general expense of the utility, and designated as an
33 availability cost, to be spread uniformly across the utility user
34 classifications.

35 (ii) For cities with a population less than two thousand five
36 hundred that established an ambulance utility before May 6, 2004, the
37 combined rates charged may reflect an exemption or reduction for

1 persons who are medicaid eligible, and for designated classes
2 consistent with Article VIII, section 7 of the state Constitution;

3 (e) The legislative authority must continue to allocate at least
4 seventy percent of the total amount of general fund revenues expended,
5 as of May 5, 2004, toward the total costs necessary to regulate,
6 operate, and maintain the ambulance service utility. However, cities
7 or towns that operated an ambulance service before May 6, 2004, and
8 commingled general fund dollars and ambulance service dollars, may
9 reasonably estimate that portion of general fund dollars that were, as
10 of May 5, 2004, applied toward the operation of the ambulance service,
11 and at least seventy percent of such estimated amount must then
12 continue to be applied toward the total cost necessary to regulate,
13 operate, and maintain the ambulance utility. Cities and towns which
14 first established an ambulance service utility after May 6, 2004, must
15 allocate, from the general fund or emergency medical service levy
16 funds, or a combination of both, at least an amount equal to seventy
17 percent of the total costs necessary to regulate, operate, and maintain
18 the ambulance service utility as of May 5, 2004, or the date that the
19 utility is established;

20 (f) The legislative authority must allocate available emergency
21 medical service levy funds, in an amount proportionate to the
22 percentage of the ambulance service costs to the total combined
23 operating costs for emergency medical services and ambulance services,
24 towards the total costs necessary to regulate, operate, and maintain
25 the ambulance utility;

26 (g) The legislative authority must allocate all revenues received
27 through direct billing to the individual user of the ambulance service
28 to the demand-related costs under subsection (3)(b) of this section;

29 (h) The total revenue generated by the rates and charges shall not
30 exceed the total costs necessary to regulate, operate, and maintain an
31 ambulance utility; and

32 (i) Revenues generated by the rates and charges must be deposited
33 in a separate fund or funds and be used only for the purpose of paying
34 for the cost of regulating, maintaining, and operating the ambulance
35 utility.

36 (5) Ambulance service rates charged pursuant to this section do not
37 constitute taxes or charges under RCW 82.02.050 through 82.02.090, or
38 35.21.768, or charges otherwise prohibited by law.

1 **Sec. 41.** RCW 35A.70.020 and 1967 ex.s. c 119 s 35A.70.020 are each
2 amended to read as follows:

3 A code city may exercise the powers relating to enforcement of
4 regulations for (~~boarding homes as authorized by RCW 18.20.100, in~~
5 ~~accordance with the procedures therein prescribed and subject to any~~
6 ~~limitations therein provided~~) assisted living facilities.

7 **Sec. 42.** RCW 43.43.832 and 2007 c 387 s 10 are each amended to
8 read as follows:

9 (1) The legislature finds that businesses and organizations
10 providing services to children, developmentally disabled persons, and
11 vulnerable adults need adequate information to determine which
12 employees or licensees to hire or engage. The legislature further
13 finds that many developmentally disabled individuals and vulnerable
14 adults desire to hire their own employees directly and also need
15 adequate information to determine which employees or licensees to hire
16 or engage. Therefore, the Washington state patrol identification and
17 criminal history section shall disclose, upon the request of a business
18 or organization as defined in RCW 43.43.830, a developmentally disabled
19 person, or a vulnerable adult as defined in RCW 43.43.830 or his or her
20 guardian, an applicant's conviction record as defined in chapter 10.97
21 RCW.

22 (2) The legislature also finds that the Washington professional
23 educator standards board may request of the Washington state patrol
24 criminal identification system information regarding a certificate
25 applicant's conviction record under subsection (1) of this section.

26 (3) The legislature also finds that law enforcement agencies, the
27 office of the attorney general, prosecuting authorities, and the
28 department of social and health services may request this same
29 information to aid in the investigation and prosecution of child,
30 developmentally disabled person, and vulnerable adult abuse cases and
31 to protect children and adults from further incidents of abuse.

32 (4) The legislature further finds that the secretary of the
33 department of social and health services must establish rules and set
34 standards to require specific action when considering the information
35 listed in subsection (1) of this section, and when considering
36 additional information including but not limited to civil adjudication

1 proceedings as defined in RCW 43.43.830 and any out-of-state
2 equivalent, in the following circumstances:

3 (a) When considering persons for state employment in positions
4 directly responsible for the supervision, care, or treatment of
5 children, vulnerable adults, or individuals with mental illness or
6 developmental disabilities;

7 (b) When considering persons for state positions involving
8 unsupervised access to vulnerable adults to conduct comprehensive
9 assessments, financial eligibility determinations, licensing and
10 certification activities, investigations, surveys, or case management;
11 or for state positions otherwise required by federal law to meet
12 employment standards;

13 (c) When licensing agencies or facilities with individuals in
14 positions directly responsible for the care, supervision, or treatment
15 of children, developmentally disabled persons, or vulnerable adults,
16 including but not limited to agencies or facilities licensed under
17 chapter 74.15 or 18.51 RCW;

18 (d) When contracting with individuals or businesses or
19 organizations for the care, supervision, case management, or treatment
20 of children, developmentally disabled persons, or vulnerable adults,
21 including but not limited to services contracted for under chapter
22 18.20, (~~18.487~~) 70.127, 70.128, 72.36, or 74.39A RCW or Title 71A
23 RCW;

24 (e) When individual providers are paid by the state or providers
25 are paid by home care agencies to provide in-home services involving
26 unsupervised access to persons with physical, mental, or developmental
27 disabilities or mental illness, or to vulnerable adults as defined in
28 chapter 74.34 RCW, including but not limited to services provided under
29 chapter 74.39 or 74.39A RCW.

30 (5) The director of the department of early learning shall
31 investigate the conviction records, pending charges, and other
32 information including civil adjudication proceeding records of current
33 employees and of any person actively being considered for any position
34 with the department who will or may have unsupervised access to
35 children, or for state positions otherwise required by federal law to
36 meet employment standards. "Considered for any position" includes
37 decisions about (a) initial hiring, layoffs, reallocations, transfers,

1 promotions, or demotions, or (b) other decisions that result in an
2 individual being in a position that will or may have unsupervised
3 access to children as an employee, an intern, or a volunteer.

4 (6) The director of the department of early learning shall adopt
5 rules and investigate conviction records, pending charges, and other
6 information including civil adjudication proceeding records, in the
7 following circumstances:

8 (a) When licensing or certifying agencies with individuals in
9 positions that will or may have unsupervised access to children who are
10 in child day care, in early learning programs, or receiving early
11 childhood education services, including but not limited to licensees,
12 agency staff, interns, volunteers, contracted providers, and persons
13 living on the premises who are sixteen years of age or older;

14 (b) When authorizing individuals who will or may have unsupervised
15 access to children who are in child day care, in early learning
16 programs, or receiving early childhood learning education services in
17 licensed or certified agencies, including but not limited to licensees,
18 agency staff, interns, volunteers, contracted providers, and persons
19 living on the premises who are sixteen years of age or older;

20 (c) When contracting with any business or organization for
21 activities that will or may have unsupervised access to children who
22 are in child day care, in early learning programs, or receiving early
23 childhood learning education services;

24 (d) When establishing the eligibility criteria for individual
25 providers to receive state paid subsidies to provide child day care or
26 early learning services that will or may involve unsupervised access to
27 children.

28 (7) Whenever a state conviction record check is required by state
29 law, persons may be employed or engaged as volunteers or independent
30 contractors on a conditional basis pending completion of the state
31 background investigation. Whenever a national criminal record check
32 through the federal bureau of investigation is required by state law,
33 a person may be employed or engaged as a volunteer or independent
34 contractor on a conditional basis pending completion of the national
35 check. The Washington personnel resources board shall adopt rules to
36 accomplish the purposes of this subsection as it applies to state
37 employees.

1 (8)(a) For purposes of facilitating timely access to criminal
2 background information and to reasonably minimize the number of
3 requests made under this section, recognizing that certain health care
4 providers change employment frequently, health care facilities may,
5 upon request from another health care facility, share copies of
6 completed criminal background inquiry information.

7 (b) Completed criminal background inquiry information may be shared
8 by a willing health care facility only if the following conditions are
9 satisfied: The licensed health care facility sharing the criminal
10 background inquiry information is reasonably known to be the person's
11 most recent employer, no more than twelve months has elapsed from the
12 date the person was last employed at a licensed health care facility to
13 the date of their current employment application, and the criminal
14 background information is no more than two years old.

15 (c) If criminal background inquiry information is shared, the
16 health care facility employing the subject of the inquiry must require
17 the applicant to sign a disclosure statement indicating that there has
18 been no conviction or finding as described in RCW 43.43.842 since the
19 completion date of the most recent criminal background inquiry.

20 (d) Any health care facility that knows or has reason to believe
21 that an applicant has or may have a disqualifying conviction or finding
22 as described in RCW 43.43.842, subsequent to the completion date of
23 their most recent criminal background inquiry, shall be prohibited from
24 relying on the applicant's previous employer's criminal background
25 inquiry information. A new criminal background inquiry shall be
26 requested pursuant to RCW 43.43.830 through 43.43.842.

27 (e) Health care facilities that share criminal background inquiry
28 information shall be immune from any claim of defamation, invasion of
29 privacy, negligence, or any other claim in connection with any
30 dissemination of this information in accordance with this subsection.

31 (f) Health care facilities shall transmit and receive the criminal
32 background inquiry information in a manner that reasonably protects the
33 subject's rights to privacy and confidentiality.

34 (g) For the purposes of this subsection, "health care facility"
35 means a nursing home licensed under chapter 18.51 RCW, (~~a boarding~~
36 ~~home~~) an assisted living facility licensed under chapter 18.20 RCW, or
37 an adult family home licensed under chapter 70.128 RCW.

1 **Sec. 43.** RCW 46.19.020 and 2010 c 161 s 702 are each amended to
2 read as follows:

3 (1) The following organizations may apply for special parking
4 privileges:

5 (a) Public transportation authorities;

6 (b) Nursing homes licensed under chapter 18.51 RCW;

7 (c) (~~Boarding homes~~) Assisted living facilities licensed under
8 chapter 18.20 RCW;

9 (d) Senior citizen centers;

10 (e) Private nonprofit corporations, as defined in RCW 24.03.005;
11 and

12 (f) Cabulance companies that regularly transport persons with
13 disabilities who have been determined eligible for special parking
14 privileges under this section and who are registered with the
15 department under chapter 46.72 RCW.

16 (2) An organization that qualifies for special parking privileges
17 may receive, upon application, parking license plates or placards, or
18 both, for persons with disabilities as defined by the department.

19 (3) Public transportation authorities, nursing homes, (~~boarding
20 homes~~) assisted living facilities, senior citizen centers, private
21 nonprofit corporations, and cabulance services are responsible for
22 ensuring that the special placards and license plates are not used
23 improperly and are responsible for all fines and penalties for improper
24 use.

25 (4) The department shall adopt rules to determine organization
26 eligibility.

27 **Sec. 44.** RCW 48.43.125 and 1999 c 312 s 2 are each amended to read
28 as follows:

29 (1) A carrier that provides coverage for a person at a long-term
30 care facility following the person's hospitalization shall, upon the
31 request of the person or his or her legal representative as authorized
32 in RCW 7.70.065, provide such coverage at the facility in which the
33 person resided immediately prior to the hospitalization if:

34 (a) The person's primary care physician determines that the medical
35 care needs of the person can be met at the requested facility;

36 (b) The requested facility has all applicable licenses and

1 certifications, and is not under a stop placement order that prevents
2 the person's readmission;

3 (c) The requested facility agrees to accept payment from the
4 carrier for covered services at the rate paid to similar facilities
5 that otherwise contract with the carrier to provide such services; and

6 (d) The requested facility, with regard to the following, agrees to
7 abide by the standards, terms, and conditions required by the carrier
8 of similar facilities with which the carrier otherwise contracts: (i)
9 Utilization review, quality assurance, and peer review; and (ii)
10 management and administrative procedures, including data and financial
11 reporting that may be required by the carrier.

12 (2) For purposes of this section, "long-term care facility" or
13 "facility" means a nursing facility licensed under chapter 18.51 RCW,
14 continuing care retirement community defined under RCW 70.38.025,
15 (~~boarding home~~) or assisted living facility licensed under chapter
16 18.20 RCW(~~, or assisted living facility~~).

17 **Sec. 45.** RCW 69.41.010 and 2009 c 549 s 1024 are each amended to
18 read as follows:

19 As used in this chapter, the following terms have the meanings
20 indicated unless the context clearly requires otherwise:

21 (1) "Administer" means the direct application of a legend drug
22 whether by injection, inhalation, ingestion, or any other means, to the
23 body of a patient or research subject by:

- 24 (a) A practitioner; or
- 25 (b) The patient or research subject at the direction of the
26 practitioner.

27 (2) "Community-based care settings" include: Community residential
28 programs for the developmentally disabled, certified by the department
29 of social and health services under chapter 71A.12 RCW; adult family
30 homes licensed under chapter 70.128 RCW; and (~~boarding homes~~)
31 assisted living facilities licensed under chapter 18.20 RCW.
32 Community-based care settings do not include acute care or skilled
33 nursing facilities.

34 (3) "Deliver" or "delivery" means the actual, constructive, or
35 attempted transfer from one person to another of a legend drug, whether
36 or not there is an agency relationship.

37 (4) "Department" means the department of health.

1 (5) "Dispense" means the interpretation of a prescription or order
2 for a legend drug and, pursuant to that prescription or order, the
3 proper selection, measuring, compounding, labeling, or packaging
4 necessary to prepare that prescription or order for delivery.

5 (6) "Dispenser" means a practitioner who dispenses.

6 (7) "Distribute" means to deliver other than by administering or
7 dispensing a legend drug.

8 (8) "Distributor" means a person who distributes.

9 (9) "Drug" means:

10 (a) Substances recognized as drugs in the official United States
11 pharmacopoeia, official homeopathic pharmacopoeia of the United States,
12 or official national formulary, or any supplement to any of them;

13 (b) Substances intended for use in the diagnosis, cure, mitigation,
14 treatment, or prevention of disease in human beings or animals;

15 (c) Substances (other than food, minerals or vitamins) intended to
16 affect the structure or any function of the body of human beings or
17 animals; and

18 (d) Substances intended for use as a component of any article
19 specified in (a), (b), or (c) of this subsection. It does not include
20 devices or their components, parts, or accessories.

21 (10) "Electronic communication of prescription information" means
22 the communication of prescription information by computer, or the
23 transmission of an exact visual image of a prescription by facsimile,
24 or other electronic means for original prescription information or
25 prescription refill information for a legend drug between an authorized
26 practitioner and a pharmacy or the transfer of prescription information
27 for a legend drug from one pharmacy to another pharmacy.

28 (11) "In-home care settings" include an individual's place of
29 temporary and permanent residence, but does not include acute care or
30 skilled nursing facilities, and does not include community-based care
31 settings.

32 (12) "Legend drugs" means any drugs which are required by state law
33 or regulation of the state board of pharmacy to be dispensed on
34 prescription only or are restricted to use by practitioners only.

35 (13) "Legible prescription" means a prescription or medication
36 order issued by a practitioner that is capable of being read and
37 understood by the pharmacist filling the prescription or the nurse or

1 other practitioner implementing the medication order. A prescription
2 must be hand printed, typewritten, or electronically generated.

3 (14) "Medication assistance" means assistance rendered by a
4 nonpractitioner to an individual residing in a community-based care
5 setting or in-home care setting to facilitate the individual's self-
6 administration of a legend drug or controlled substance. It includes
7 reminding or coaching the individual, handing the medication container
8 to the individual, opening the individual's medication container, using
9 an enabler, or placing the medication in the individual's hand, and
10 such other means of medication assistance as defined by rule adopted by
11 the department. A nonpractitioner may help in the preparation of
12 legend drugs or controlled substances for self-administration where a
13 practitioner has determined and communicated orally or by written
14 direction that such medication preparation assistance is necessary and
15 appropriate. Medication assistance shall not include assistance with
16 intravenous medications or injectable medications, except prefilled
17 insulin syringes.

18 (15) "Person" means individual, corporation, government or
19 governmental subdivision or agency, business trust, estate, trust,
20 partnership or association, or any other legal entity.

21 (16) "Practitioner" means:

22 (a) A physician under chapter 18.71 RCW, an osteopathic physician
23 or an osteopathic physician and surgeon under chapter 18.57 RCW, a
24 dentist under chapter 18.32 RCW, a podiatric physician and surgeon
25 under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a
26 registered nurse, advanced registered nurse practitioner, or licensed
27 practical nurse under chapter 18.79 RCW, an optometrist under chapter
28 18.53 RCW who is certified by the optometry board under RCW 18.53.010,
29 an osteopathic physician assistant under chapter 18.57A RCW, a
30 physician assistant under chapter 18.71A RCW, a naturopath licensed
31 under chapter 18.36A RCW, a pharmacist under chapter 18.64 RCW, or,
32 when acting under the required supervision of a dentist licensed under
33 chapter 18.32 RCW, a dental hygienist licensed under chapter 18.29 RCW;

34 (b) A pharmacy, hospital, or other institution licensed,
35 registered, or otherwise permitted to distribute, dispense, conduct
36 research with respect to, or to administer a legend drug in the course
37 of professional practice or research in this state; and

1 (c) A physician licensed to practice medicine and surgery or a
2 physician licensed to practice osteopathic medicine and surgery in any
3 state, or province of Canada, which shares a common border with the
4 state of Washington.

5 (17) "Secretary" means the secretary of health or the secretary's
6 designee.

7 **Sec. 46.** RCW 69.41.085 and 2003 c 140 s 12 are each amended to
8 read as follows:

9 Individuals residing in community-based care settings, such as
10 adult family homes, (~~boarding homes~~) assisted living facilities, and
11 residential care settings for (~~the developmentally disabled~~)
12 individuals with developmental disabilities, including an individual's
13 home, may receive medication assistance. Nothing in this chapter
14 affects the right of an individual to refuse medication or requirements
15 relating to informed consent.

16 **Sec. 47.** RCW 69.50.308 and 2001 c 248 s 1 are each amended to read
17 as follows:

18 (a) A controlled substance may be dispensed only as provided in
19 this section.

20 (b) Except when dispensed directly by a practitioner authorized to
21 prescribe or administer a controlled substance, other than a pharmacy,
22 to an ultimate user, a substance included in Schedule II may not be
23 dispensed without the written prescription of a practitioner.

24 (1) Schedule II narcotic substances may be dispensed by a pharmacy
25 pursuant to a facsimile prescription under the following circumstances:

26 (i) The facsimile prescription is transmitted by a practitioner to
27 the pharmacy; and

28 (ii) The facsimile prescription is for a patient in a long-term
29 care facility. "Long-term care facility" means nursing homes licensed
30 under chapter 18.51 RCW, (~~boarding homes~~) assisted living facilities
31 licensed under chapter 18.20 RCW, and adult family homes licensed under
32 chapter 70.128 RCW; or

33 (iii) The facsimile prescription is for a patient of a hospice
34 program certified or paid for by medicare under Title XVIII; or

35 (iv) The facsimile prescription is for a patient of a hospice
36 program licensed by the state; and

1 (v) The practitioner or the practitioner's agent notes on the
2 facsimile prescription that the patient is a long-term care or hospice
3 patient.

4 (2) Injectable Schedule II narcotic substances that are to be
5 compounded for patient use may be dispensed by a pharmacy pursuant to
6 a facsimile prescription if the facsimile prescription is transmitted
7 by a practitioner to the pharmacy.

8 (3) Under (1) and (2) of this subsection the facsimile prescription
9 shall serve as the original prescription and shall be maintained as
10 other Schedule II narcotic substances prescriptions.

11 (c) In emergency situations, as defined by rule of the state board
12 of pharmacy, a substance included in Schedule II may be dispensed upon
13 oral prescription of a practitioner, reduced promptly to writing and
14 filed by the pharmacy. Prescriptions shall be retained in conformity
15 with the requirements of RCW 69.50.306. A prescription for a substance
16 included in Schedule II may not be refilled.

17 (d) Except when dispensed directly by a practitioner authorized to
18 prescribe or administer a controlled substance, other than a pharmacy,
19 to an ultimate user, a substance included in Schedule III or IV, which
20 is a prescription drug as determined under RCW 69.04.560, may not be
21 dispensed without a written or oral prescription of a practitioner.
22 Any oral prescription must be promptly reduced to writing. The
23 prescription shall not be filled or refilled more than six months after
24 the date thereof or be refilled more than five times, unless renewed by
25 the practitioner.

26 (e) A valid prescription or lawful order of a practitioner, in
27 order to be effective in legalizing the possession of controlled
28 substances, must be issued in good faith for a legitimate medical
29 purpose by one authorized to prescribe the use of such controlled
30 substance. An order purporting to be a prescription not in the course
31 of professional treatment is not a valid prescription or lawful order
32 of a practitioner within the meaning and intent of this chapter; and
33 the person who knows or should know that the person is filling such an
34 order, as well as the person issuing it, can be charged with a
35 violation of this chapter.

36 (f) A substance included in Schedule V must be distributed or
37 dispensed only for a medical purpose.

1 (g) A practitioner may dispense or deliver a controlled substance
2 to or for an individual or animal only for medical treatment or
3 authorized research in the ordinary course of that practitioner's
4 profession. Medical treatment includes dispensing or administering a
5 narcotic drug for pain, including intractable pain.

6 (h) No administrative sanction, or civil or criminal liability,
7 authorized or created by this chapter may be imposed on a pharmacist
8 for action taken in reliance on a reasonable belief that an order
9 purporting to be a prescription was issued by a practitioner in the
10 usual course of professional treatment or in authorized research.

11 (i) An individual practitioner may not dispense a substance
12 included in Schedule II, III, or IV for that individual practitioner's
13 personal use.

14 **Sec. 48.** RCW 70.38.105 and 2009 c 315 s 1 and 2009 c 242 s 3 are
15 each reenacted and amended to read as follows:

16 (1) The department is authorized and directed to implement the
17 certificate of need program in this state pursuant to the provisions of
18 this chapter.

19 (2) There shall be a state certificate of need program which is
20 administered consistent with the requirements of federal law as
21 necessary to the receipt of federal funds by the state.

22 (3) No person shall engage in any undertaking which is subject to
23 certificate of need review under subsection (4) of this section without
24 first having received from the department either a certificate of need
25 or an exception granted in accordance with this chapter.

26 (4) The following shall be subject to certificate of need review
27 under this chapter:

28 (a) The construction, development, or other establishment of a new
29 health care facility including, but not limited to, a hospital
30 constructed, developed, or established by a health maintenance
31 organization or by a combination of health maintenance organizations
32 except as provided in subsection (7)(a) of this section;

33 (b) The sale, purchase, or lease of part or all of any existing
34 hospital as defined in RCW 70.38.025 including, but not limited to, a
35 hospital sold, purchased, or leased by a health maintenance
36 organization or by a combination of health maintenance organizations
37 except as provided in subsection (7)(b) of this section;

1 (c) Any capital expenditure for the construction, renovation, or
2 alteration of a nursing home which substantially changes the services
3 of the facility after January 1, 1981, provided that the substantial
4 changes in services are specified by the department in rule;

5 (d) Any capital expenditure for the construction, renovation, or
6 alteration of a nursing home which exceeds the expenditure minimum as
7 defined by RCW 70.38.025. However, a capital expenditure which is not
8 subject to certificate of need review under (a), (b), (c), or (e) of
9 this subsection and which is solely for any one or more of the
10 following is not subject to certificate of need review:

11 (i) Communications and parking facilities;

12 (ii) Mechanical, electrical, ventilation, heating, and air
13 conditioning systems;

14 (iii) Energy conservation systems;

15 (iv) Repairs to, or the correction of, deficiencies in existing
16 physical plant facilities which are necessary to maintain state
17 licensure, however, other additional repairs, remodeling, or
18 replacement projects that are not related to one or more deficiency
19 citations and are not necessary to maintain state licensure are not
20 exempt from certificate of need review except as otherwise permitted by
21 (d)(vi) of this subsection or RCW 70.38.115(13);

22 (v) Acquisition of equipment, including data processing equipment,
23 which is not or will not be used in the direct provision of health
24 services;

25 (vi) Construction or renovation at an existing nursing home which
26 involves physical plant facilities, including administrative, dining
27 areas, kitchen, laundry, therapy areas, and support facilities, by an
28 existing licensee who has operated the beds for at least one year;

29 (vii) Acquisition of land; and

30 (viii) Refinancing of existing debt;

31 (e) A change in bed capacity of a health care facility which
32 increases the total number of licensed beds or redistributes beds among
33 acute care, nursing home care, and (~~boarding home~~) assisted living
34 facility care if the bed redistribution is to be effective for a period
35 in excess of six months, or a change in bed capacity of a rural health
36 care facility licensed under RCW 70.175.100 that increases the total
37 number of nursing home beds or redistributes beds from acute care or
38 (~~boarding home~~) assisted living facility care to nursing home care if

1 the bed redistribution is to be effective for a period in excess of six
2 months. A health care facility certified as a critical access hospital
3 under 42 U.S.C. 1395i-4 may increase its total number of licensed beds
4 to the total number of beds permitted under 42 U.S.C. 1395i-4 for acute
5 care and may redistribute beds permitted under 42 U.S.C. 1395i-4 among
6 acute care and nursing home care without being subject to certificate
7 of need review. If there is a nursing home licensed under chapter
8 18.51 RCW within twenty-seven miles of the critical access hospital,
9 the critical access hospital is subject to certificate of need review
10 except for:

11 (i) Critical access hospitals which had designated beds to provide
12 nursing home care, in excess of five swing beds, prior to December 31,
13 2003;

14 (ii) Up to five swing beds; or

15 (iii) Up to twenty-five swing beds for critical access hospitals
16 which do not have a nursing home licensed under chapter 18.51 RCW
17 within the same city or town limits. Up to one-half of the additional
18 beds designated for swing bed services under this subsection
19 (4)(e)(iii) may be so designated before July 1, 2010, with the balance
20 designated on or after July 1, 2010.

21 Critical access hospital beds not subject to certificate of need
22 review under this subsection (4)(e) will not be counted as either acute
23 care or nursing home care for certificate of need review purposes. If
24 a health care facility ceases to be certified as a critical access
25 hospital under 42 U.S.C. 1395i-4, the hospital may revert back to the
26 type and number of licensed hospital beds as it had when it requested
27 critical access hospital designation;

28 (f) Any new tertiary health services which are offered in or
29 through a health care facility or rural health care facility licensed
30 under RCW 70.175.100, and which were not offered on a regular basis by,
31 in, or through such health care facility or rural health care facility
32 within the twelve-month period prior to the time such services would be
33 offered;

34 (g) Any expenditure for the construction, renovation, or alteration
35 of a nursing home or change in nursing home services in excess of the
36 expenditure minimum made in preparation for any undertaking under this
37 subsection (4) of this section and any arrangement or commitment made
38 for financing such undertaking. Expenditures of preparation shall

1 include expenditures for architectural designs, plans, working
2 drawings, and specifications. The department may issue certificates of
3 need permitting predevelopment expenditures, only, without authorizing
4 any subsequent undertaking with respect to which such predevelopment
5 expenditures are made; and

6 (h) Any increase in the number of dialysis stations in a kidney
7 disease center.

8 (5) The department is authorized to charge fees for the review of
9 certificate of need applications and requests for exemptions from
10 certificate of need review. The fees shall be sufficient to cover the
11 full cost of review and exemption, which may include the development of
12 standards, criteria, and policies.

13 (6) No person may divide a project in order to avoid review
14 requirements under any of the thresholds specified in this section.

15 (7)(a) The requirement that a health maintenance organization
16 obtain a certificate of need under subsection (4)(a) of this section
17 for the construction, development, or other establishment of a hospital
18 does not apply to a health maintenance organization operating a group
19 practice that has been continuously licensed as a health maintenance
20 organization since January 1, 2009;

21 (b) The requirement that a health maintenance organization obtain
22 a certificate of need under subsection (4)(b) of this section to sell,
23 purchase, or lease a hospital does not apply to a health maintenance
24 organization operating a group practice that has been continuously
25 licensed as a health maintenance organization since January 1, 2009.

26 **Sec. 49.** RCW 70.38.111 and 2009 c 315 s 2 and 2009 c 89 s 1 are
27 each reenacted and amended to read as follows:

28 (1) The department shall not require a certificate of need for the
29 offering of an inpatient tertiary health service by:

30 (a) A health maintenance organization or a combination of health
31 maintenance organizations if (i) the organization or combination of
32 organizations has, in the service area of the organization or the
33 service areas of the organizations in the combination, an enrollment of
34 at least fifty thousand individuals, (ii) the facility in which the
35 service will be provided is or will be geographically located so that
36 the service will be reasonably accessible to such enrolled individuals,
37 and (iii) at least seventy-five percent of the patients who can

1 reasonably be expected to receive the tertiary health service will be
2 individuals enrolled with such organization or organizations in the
3 combination;

4 (b) A health care facility if (i) the facility primarily provides
5 or will provide inpatient health services, (ii) the facility is or will
6 be controlled, directly or indirectly, by a health maintenance
7 organization or a combination of health maintenance organizations which
8 has, in the service area of the organization or service areas of the
9 organizations in the combination, an enrollment of at least fifty
10 thousand individuals, (iii) the facility is or will be geographically
11 located so that the service will be reasonably accessible to such
12 enrolled individuals, and (iv) at least seventy-five percent of the
13 patients who can reasonably be expected to receive the tertiary health
14 service will be individuals enrolled with such organization or
15 organizations in the combination; or

16 (c) A health care facility (or portion thereof) if (i) the facility
17 is or will be leased by a health maintenance organization or
18 combination of health maintenance organizations which has, in the
19 service area of the organization or the service areas of the
20 organizations in the combination, an enrollment of at least fifty
21 thousand individuals and, on the date the application is submitted
22 under subsection (2) of this section, at least fifteen years remain in
23 the term of the lease, (ii) the facility is or will be geographically
24 located so that the service will be reasonably accessible to such
25 enrolled individuals, and (iii) at least seventy-five percent of the
26 patients who can reasonably be expected to receive the tertiary health
27 service will be individuals enrolled with such organization;

28 if, with respect to such offering or obligation by a nursing home, the
29 department has, upon application under subsection (2) of this section,
30 granted an exemption from such requirement to the organization,
31 combination of organizations, or facility.

32 (2) A health maintenance organization, combination of health
33 maintenance organizations, or health care facility shall not be exempt
34 under subsection (1) of this section from obtaining a certificate of
35 need before offering a tertiary health service unless:

36 (a) It has submitted at least thirty days prior to the offering of
37 services reviewable under RCW 70.38.105(4)(d) an application for such
38 exemption; and

1 (b) The application contains such information respecting the
2 organization, combination, or facility and the proposed offering or
3 obligation by a nursing home as the department may require to determine
4 if the organization or combination meets the requirements of subsection
5 (1) of this section or the facility meets or will meet such
6 requirements; and

7 (c) The department approves such application. The department shall
8 approve or disapprove an application for exemption within thirty days
9 of receipt of a completed application. In the case of a proposed
10 health care facility (or portion thereof) which has not begun to
11 provide tertiary health services on the date an application is
12 submitted under this subsection with respect to such facility (or
13 portion), the facility (or portion) shall meet the applicable
14 requirements of subsection (1) of this section when the facility first
15 provides such services. The department shall approve an application
16 submitted under this subsection if it determines that the applicable
17 requirements of subsection (1) of this section are met.

18 (3) A health care facility (or any part thereof) with respect to
19 which an exemption was granted under subsection (1) of this section may
20 not be sold or leased and a controlling interest in such facility or in
21 a lease of such facility may not be acquired and a health care facility
22 described in (1)(c) which was granted an exemption under subsection (1)
23 of this section may not be used by any person other than the lessee
24 described in (1)(c) unless:

25 (a) The department issues a certificate of need approving the sale,
26 lease, acquisition, or use; or

27 (b) The department determines, upon application, that (i) the
28 entity to which the facility is proposed to be sold or leased, which
29 intends to acquire the controlling interest, or which intends to use
30 the facility is a health maintenance organization or a combination of
31 health maintenance organizations which meets the requirements of
32 (1)(a)(i), and (ii) with respect to such facility, meets the
33 requirements of (1)(a)(ii) or (iii) or the requirements of (1)(b)(i)
34 and (ii).

35 (4) In the case of a health maintenance organization, an ambulatory
36 care facility, or a health care facility, which ambulatory or health
37 care facility is controlled, directly or indirectly, by a health
38 maintenance organization or a combination of health maintenance

1 organizations, the department may under the program apply its
2 certificate of need requirements to the offering of inpatient tertiary
3 health services to the extent that such offering is not exempt under
4 the provisions of this section or RCW 70.38.105(7).

5 (5)(a) The department shall not require a certificate of need for
6 the construction, development, or other establishment of a nursing
7 home, or the addition of beds to an existing nursing home, that is
8 owned and operated by a continuing care retirement community that:

9 (i) Offers services only to contractual members;

10 (ii) Provides its members a contractually guaranteed range of
11 services from independent living through skilled nursing, including
12 some assistance with daily living activities;

13 (iii) Contractually assumes responsibility for the cost of services
14 exceeding the member's financial responsibility under the contract, so
15 that no third party, with the exception of insurance purchased by the
16 retirement community or its members, but including the medicaid
17 program, is liable for costs of care even if the member depletes his or
18 her personal resources;

19 (iv) Has offered continuing care contracts and operated a nursing
20 home continuously since January 1, 1988, or has obtained a certificate
21 of need to establish a nursing home;

22 (v) Maintains a binding agreement with the state assuring that
23 financial liability for services to members, including nursing home
24 services, will not fall upon the state;

25 (vi) Does not operate, and has not undertaken a project that would
26 result in a number of nursing home beds in excess of one for every four
27 living units operated by the continuing care retirement community,
28 exclusive of nursing home beds; and

29 (vii) Has obtained a professional review of pricing and long-term
30 solvency within the prior five years which was fully disclosed to
31 members.

32 (b) A continuing care retirement community shall not be exempt
33 under this subsection from obtaining a certificate of need unless:

34 (i) It has submitted an application for exemption at least thirty
35 days prior to commencing construction of, is submitting an application
36 for the licensure of, or is commencing operation of a nursing home,
37 whichever comes first; and

1 (ii) The application documents to the department that the
2 continuing care retirement community qualifies for exemption.

3 (c) The sale, lease, acquisition, or use of part or all of a
4 continuing care retirement community nursing home that qualifies for
5 exemption under this subsection shall require prior certificate of need
6 approval to qualify for licensure as a nursing home unless the
7 department determines such sale, lease, acquisition, or use is by a
8 continuing care retirement community that meets the conditions of (a)
9 of this subsection.

10 (6) A rural hospital, as defined by the department, reducing the
11 number of licensed beds to become a rural primary care hospital under
12 the provisions of Part A Title XVIII of the Social Security Act Section
13 1820, 42 U.S.C., 1395c et seq. may, within three years of the reduction
14 of beds licensed under chapter 70.41 RCW, increase the number of
15 licensed beds to no more than the previously licensed number without
16 being subject to the provisions of this chapter.

17 (7) A rural health care facility licensed under RCW 70.175.100
18 formerly licensed as a hospital under chapter 70.41 RCW may, within
19 three years of the effective date of the rural health care facility
20 license, apply to the department for a hospital license and not be
21 subject to the requirements of RCW 70.38.105(4)(a) as the construction,
22 development, or other establishment of a new hospital, provided there
23 is no increase in the number of beds previously licensed under chapter
24 70.41 RCW and there is no redistribution in the number of beds used for
25 acute care or long-term care, the rural health care facility has been
26 in continuous operation, and the rural health care facility has not
27 been purchased or leased.

28 (8)(a) A nursing home that voluntarily reduces the number of its
29 licensed beds to provide assisted living, licensed (~~(boarding home)~~)
30 assisted living facility care, adult day care, adult day health,
31 respite care, hospice, outpatient therapy services, congregate meals,
32 home health, or senior wellness clinic, or to reduce to one or two the
33 number of beds per room or to otherwise enhance the quality of life for
34 residents in the nursing home, may convert the original facility or
35 portion of the facility back, and thereby increase the number of
36 nursing home beds to no more than the previously licensed number of
37 nursing home beds without obtaining a certificate of need under this
38 chapter, provided the facility has been in continuous operation and has

1 not been purchased or leased. Any conversion to the original licensed
2 bed capacity, or to any portion thereof, shall comply with the same
3 life and safety code requirements as existed at the time the nursing
4 home voluntarily reduced its licensed beds; unless waivers from such
5 requirements were issued, in which case the converted beds shall
6 reflect the conditions or standards that then existed pursuant to the
7 approved waivers.

8 (b) To convert beds back to nursing home beds under this
9 subsection, the nursing home must:

10 (i) Give notice of its intent to preserve conversion options to the
11 department of health no later than thirty days after the effective date
12 of the license reduction; and

13 (ii) Give notice to the department of health and to the department
14 of social and health services of the intent to convert beds back. If
15 construction is required for the conversion of beds back, the notice of
16 intent to convert beds back must be given, at a minimum, one year prior
17 to the effective date of license modification reflecting the restored
18 beds; otherwise, the notice must be given a minimum of ninety days
19 prior to the effective date of license modification reflecting the
20 restored beds. Prior to any license modification to convert beds back
21 to nursing home beds under this section, the licensee must demonstrate
22 that the nursing home meets the certificate of need exemption
23 requirements of this section.

24 The term "construction," as used in (b)(ii) of this subsection, is
25 limited to those projects that are expected to equal or exceed the
26 expenditure minimum amount, as determined under this chapter.

27 (c) Conversion of beds back under this subsection must be completed
28 no later than four years after the effective date of the license
29 reduction. However, for good cause shown, the four-year period for
30 conversion may be extended by the department of health for one
31 additional four-year period.

32 (d) Nursing home beds that have been voluntarily reduced under this
33 section shall be counted as available nursing home beds for the purpose
34 of evaluating need under RCW 70.38.115(2) (a) and (k) so long as the
35 facility retains the ability to convert them back to nursing home use
36 under the terms of this section.

37 (e) When a building owner has secured an interest in the nursing
38 home beds, which are intended to be voluntarily reduced by the licensee

1 under (a) of this subsection, the applicant shall provide the
2 department with a written statement indicating the building owner's
3 approval of the bed reduction.

4 (9)(a) The department shall not require a certificate of need for
5 a hospice agency if:

6 (i) The hospice agency is designed to serve the unique religious or
7 cultural needs of a religious group or an ethnic minority and commits
8 to furnishing hospice services in a manner specifically aimed at
9 meeting the unique religious or cultural needs of the religious group
10 or ethnic minority;

11 (ii) The hospice agency is operated by an organization that:

12 (A) Operates a facility, or group of facilities, that offers a
13 comprehensive continuum of long-term care services, including, at a
14 minimum, a licensed, medicare-certified nursing home, assisted living,
15 independent living, day health, and various community-based support
16 services, designed to meet the unique social, cultural, and religious
17 needs of a specific cultural and ethnic minority group;

18 (B) Has operated the facility or group of facilities for at least
19 ten continuous years prior to the establishment of the hospice agency;

20 (iii) The hospice agency commits to coordinating with existing
21 hospice programs in its community when appropriate;

22 (iv) The hospice agency has a census of no more than forty
23 patients;

24 (v) The hospice agency commits to obtaining and maintaining
25 medicare certification;

26 (vi) The hospice agency only serves patients located in the same
27 county as the majority of the long-term care services offered by the
28 organization that operates the agency; and

29 (vii) The hospice agency is not sold or transferred to another
30 agency.

31 (b) The department shall include the patient census for an agency
32 exempted under this subsection (9) in its calculations for future
33 certificate of need applications.

34 **Sec. 50.** RCW 70.79.090 and 2009 c 90 s 4 are each amended to read
35 as follows:

36 The following boilers and unfired pressure vessels shall be exempt
37 from the requirements of RCW 70.79.220 and 70.79.240 through 70.79.330:

1 (1) Boilers or unfired pressure vessels located on farms and used
2 solely for agricultural purposes;

3 (2) Unfired pressure vessels that are part of fertilizer applicator
4 rigs designed and used exclusively for fertilization in the conduct of
5 agricultural operations;

6 (3) Steam boilers used exclusively for heating purposes carrying a
7 pressure of not more than fifteen pounds per square inch gauge and
8 which are located in private residences or in apartment houses of less
9 than six families;

10 (4) Hot water heating boilers carrying a pressure of not more than
11 thirty pounds per square inch and which are located in private
12 residences or in apartment houses of less than six families;

13 (5) Approved pressure vessels (hot water heaters, hot water storage
14 tanks, hot water supply boilers, and hot water heating boilers listed
15 by a nationally recognized testing agency), with approved safety
16 devices including a pressure relief valve, with a nominal water
17 containing capacity of one hundred twenty gallons or less having a heat
18 input of two hundred thousand b.t.u.'s per hour or less, at pressure of
19 one hundred sixty pounds per square inch or less, and at temperatures
20 of two hundred ten degrees Fahrenheit or less: PROVIDED, HOWEVER, That
21 such pressure vessels are not installed in schools, child care centers,
22 public and private hospitals, nursing (~~and boarding~~) homes, assisted
23 living facilities, churches, public buildings owned or leased and
24 maintained by the state or any political subdivision thereof, and
25 assembly halls;

26 (6) Unfired pressure vessels containing only water under pressure
27 for domestic supply purposes, including those containing air, the
28 compression of which serves only as a cushion or airlift pumping
29 systems, when located in private residences or in apartment houses of
30 less than six families, or in public water systems as defined in RCW
31 70.119.020;

32 (7) Unfired pressure vessels containing liquified petroleum gases.

33 **Sec. 51.** RCW 70.87.305 and 2004 c 66 s 3 are each amended to read
34 as follows:

35 (1) The department shall, by rule, establish licensing requirements
36 for conveyance work performed on private residence conveyances. These
37 rules shall include an exemption from licensing for maintenance work on

1 private residence conveyances performed by an owner or at the direction
2 of the owner, provided the owner resides in the residence at which the
3 conveyance is located and the conveyance is not accessible to the
4 general public. However, maintenance work performed on private
5 residence conveyances located in or at adult family homes licensed
6 under chapter 70.128 RCW, (~~boarding homes~~) assisted living facilities
7 licensed under chapter 18.20 RCW, or similarly licensed caregiving
8 facilities must comply with the licensing requirements of this chapter.

9 (2) The rules adopted under this section take effect July 1, 2004.

10 **Sec. 52.** RCW 70.97.060 and 2005 c 504 s 408 are each amended to
11 read as follows:

12 (1)(a) The department shall not license an enhanced services
13 facility that serves any residents under sixty-five years of age for a
14 capacity to exceed sixteen residents.

15 (b) The department may contract for services for the operation of
16 enhanced services facilities only to the extent that funds are
17 specifically provided for that purpose.

18 (2) The facility shall provide an appropriate level of security for
19 the characteristics, behaviors, and legal status of the residents.

20 (3) An enhanced services facility may hold only one license but, to
21 the extent permitted under state and federal law and medicaid
22 requirements, a facility may be located in the same building as another
23 licensed facility, provided that:

24 (a) The enhanced services facility is in a location that is totally
25 separate and discrete from the other licensed facility; and

26 (b) The two facilities maintain separate staffing, unless an
27 exception to this is permitted by the department in rule.

28 (4) Nursing homes under chapter 18.51 RCW, (~~boarding homes~~)
29 assisted living facilities under chapter 18.20 RCW, or adult family
30 homes under chapter 70.128 RCW, that become licensed as facilities
31 under this chapter shall be deemed to meet the applicable state and
32 local rules, regulations, permits, and code requirements. All other
33 facilities are required to meet all applicable state and local rules,
34 regulations, permits, and code requirements.

35 **Sec. 53.** RCW 70.97.090 and 2005 c 504 s 411 are each amended to
36 read as follows:

1 This chapter does not apply to the following residential
2 facilities:

- 3 (1) Nursing homes licensed under chapter 18.51 RCW;
- 4 (2) (~~Boarding homes~~) Assisted living facilities licensed under
5 chapter 18.20 RCW;
- 6 (3) Adult family homes licensed under chapter 70.128 RCW;
- 7 (4) Facilities approved and certified under chapter 71A.22 RCW;
- 8 (5) Residential treatment facilities licensed under chapter 71.12
9 RCW; and
- 10 (6) Hospitals licensed under chapter 70.41 RCW.

11 **Sec. 54.** RCW 70.122.020 and 1992 c 98 s 2 are each amended to read
12 as follows:

13 Unless the context clearly requires otherwise, the definitions
14 contained in this section shall apply throughout this chapter.

15 (1) "Adult person" means a person who has attained the age of
16 majority as defined in RCW 26.28.010 and 26.28.015, and who has the
17 capacity to make health care decisions.

18 (2) "Attending physician" means the physician selected by, or
19 assigned to, the patient who has primary responsibility for the
20 treatment and care of the patient.

21 (3) "Directive" means a written document voluntarily executed by
22 the declarer generally consistent with the guidelines of RCW
23 70.122.030.

24 (4) "Health facility" means a hospital as defined in RCW
25 70.41.020(~~(+2)~~) (4) or a nursing home as defined in RCW 18.51.010, a
26 home health agency or hospice agency as defined in RCW 70.126.010, or
27 (~~a boarding home~~) an assisted living facility as defined in RCW
28 18.20.020.

29 (5) "Life-sustaining treatment" means any medical or surgical
30 intervention that uses mechanical or other artificial means, including
31 artificially provided nutrition and hydration, to sustain, restore, or
32 replace a vital function, which, when applied to a qualified patient,
33 would serve only to prolong the process of dying. "Life-sustaining
34 treatment" shall not include the administration of medication or the
35 performance of any medical or surgical intervention deemed necessary
36 solely to alleviate pain.

1 (6) "Permanent unconscious condition" means an incurable and
2 irreversible condition in which the patient is medically assessed
3 within reasonable medical judgment as having no reasonable probability
4 of recovery from an irreversible coma or a persistent vegetative state.

5 (7) "Physician" means a person licensed under chapters 18.71 or
6 18.57 RCW.

7 (8) "Qualified patient" means an adult person who is a patient
8 diagnosed in writing to have a terminal condition by the patient's
9 attending physician, who has personally examined the patient, or a
10 patient who is diagnosed in writing to be in a permanent unconscious
11 condition in accordance with accepted medical standards by two
12 physicians, one of whom is the patient's attending physician, and both
13 of whom have personally examined the patient.

14 (9) "Terminal condition" means an incurable and irreversible
15 condition caused by injury, disease, or illness, that, within
16 reasonable medical judgment, will cause death within a reasonable
17 period of time in accordance with accepted medical standards, and where
18 the application of life-sustaining treatment serves only to prolong the
19 process of dying.

20 **Sec. 55.** RCW 70.127.040 and 2003 c 275 s 3 and 2003 c 140 s 8 are
21 each reenacted and amended to read as follows:

22 The following are not subject to regulation for the purposes of
23 this chapter:

24 (1) A family member providing home health, hospice, or home care
25 services;

26 (2) A person who provides only meal services in an individual's
27 permanent or temporary residence;

28 (3) An individual providing home care through a direct agreement
29 with a recipient of care in an individual's permanent or temporary
30 residence;

31 (4) A person furnishing or delivering home medical supplies or
32 equipment that does not involve the provision of services beyond those
33 necessary to deliver, set up, and monitor the proper functioning of the
34 equipment and educate the user on its proper use;

35 (5) A person who provides services through a contract with a
36 licensed agency;

- 1 (6) An employee or volunteer of a licensed agency who provides
2 services only as an employee or volunteer;
- 3 (7) Facilities and institutions, including but not limited to
4 nursing homes under chapter 18.51 RCW, hospitals under chapter 70.41
5 RCW, adult family homes under chapter 70.128 RCW, (~~boarding homes~~)
6 assisted living facilities under chapter 18.20 RCW, developmental
7 disability residential programs under chapter 71A.12 RCW, other
8 entities licensed under chapter 71.12 RCW, or other licensed facilities
9 and institutions, only when providing services to persons residing
10 within the facility or institution;
- 11 (8) Local and combined city-county health departments providing
12 services under chapters 70.05 and 70.08 RCW;
- 13 (9) An individual providing care to ill individuals, (~~disabled~~)
14 individuals with disabilities, or vulnerable individuals through a
15 contract with the department of social and health services;
- 16 (10) Nursing homes, hospitals, or other institutions, agencies,
17 organizations, or persons that contract with licensed home health,
18 hospice, or home care agencies for the delivery of services;
- 19 (11) In-home assessments of an ill individual, (~~disabled~~) an
20 individual with a disability, or vulnerable individual that does not
21 result in regular ongoing care at home;
- 22 (12) Services conducted by and for the adherents of a church or
23 religious denomination that rely upon spiritual means alone through
24 prayer for healing in accordance with the tenets and practices of such
25 church or religious denomination and the bona fide religious beliefs
26 genuinely held by such adherents;
- 27 (13) A medicare-approved dialysis center operating a medicare-
28 approved home dialysis program;
- 29 (14) A person providing case management services. For the purposes
30 of this subsection, "case management" means the assessment,
31 coordination, authorization, planning, training, and monitoring of home
32 health, hospice, and home care, and does not include the direct
33 provision of care to an individual;
- 34 (15) Pharmacies licensed under RCW 18.64.043 that deliver
35 prescription drugs and durable medical equipment that does not involve
36 the use of professional services beyond those authorized to be
37 performed by licensed pharmacists pursuant to chapter 18.64 RCW and

1 those necessary to set up and monitor the proper functioning of the
2 equipment and educate the person on its proper use;

3 (16) A volunteer hospice complying with the requirements of RCW
4 70.127.050; and

5 (17) A person who provides home care services without compensation.

6 **Sec. 56.** RCW 70.128.030 and 1989 c 427 s 17 are each amended to
7 read as follows:

8 The following residential facilities shall be exempt from the
9 operation of this chapter:

- 10 (1) Nursing homes licensed under chapter 18.51 RCW;
- 11 (2) (~~Boarding homes~~) Assisted living facilities licensed under
12 chapter 18.20 RCW;
- 13 (3) Facilities approved and certified under chapter 71A.22 RCW;
- 14 (4) Residential treatment centers for (~~the mentally ill~~)
15 individuals with mental illness licensed under chapter 71.24 RCW;
- 16 (5) Hospitals licensed under chapter 70.41 RCW;
- 17 (6) Homes for (~~the developmentally disabled~~) individuals with
18 developmental disabilities licensed under chapter 74.15 RCW.

19 **Sec. 57.** RCW 70.128.210 and 1998 c 272 s 3 are each amended to
20 read as follows:

21 (1) The department of social and health services shall review, in
22 coordination with the department of health, the nursing care quality
23 assurance commission, adult family home providers, (~~boarding home~~)
24 assisted living facility providers, in-home personal care providers,
25 and long-term care consumers and advocates, training standards for
26 providers, resident managers, and resident caregiving staff. The
27 departments and the commission shall submit to the appropriate
28 committees of the house of representatives and the senate by December
29 1, 1998, specific recommendations on training standards and the
30 delivery system, including necessary statutory changes and funding
31 requirements. Any proposed enhancements shall be consistent with this
32 section, shall take into account and not duplicate other training
33 requirements applicable to adult family homes and staff, and shall be
34 developed with the input of adult family home and resident
35 representatives, health care professionals, and other vested interest
36 groups. Training standards and the delivery system shall be relevant

1 to the needs of residents served by the adult family home and
2 recipients of long-term in-home personal care services and shall be
3 sufficient to ensure that providers, resident managers, and caregiving
4 staff have the skills and knowledge necessary to provide high quality,
5 appropriate care.

6 (2) The recommendations on training standards and the delivery
7 system developed under subsection (1) of this section shall be based on
8 a review and consideration of the following: Quality of care;
9 availability of training; affordability, including the training costs
10 incurred by the department of social and health services and private
11 providers; portability of existing training requirements; competency
12 testing; practical and clinical course work; methods of delivery of
13 training; standards for management; uniform caregiving staff training;
14 necessary enhancements for special needs populations; and resident
15 rights training. Residents with special needs include, but are not
16 limited to, residents with a diagnosis of mental illness, dementia, or
17 developmental disability. Development of training recommendations for
18 developmental disabilities services shall be coordinated with the study
19 requirements in section 6, chapter 272, Laws of 1998.

20 (3) The department of social and health services shall report to
21 the appropriate committees of the house of representatives and the
22 senate by December 1, 1998, on the cost of implementing the proposed
23 training standards for state-funded residents, and on the extent to
24 which that cost is covered by existing state payment rates.

25 **Sec. 58.** RCW 70.129.005 and 1994 c 214 s 1 are each amended to
26 read as follows:

27 The legislature recognizes that long-term care facilities are a
28 critical part of the state's long-term care services system. It is the
29 intent of the legislature that individuals who reside in long-term care
30 facilities receive appropriate services, be treated with courtesy, and
31 continue to enjoy their basic civil and legal rights.

32 It is also the intent of the legislature that long-term care
33 facility residents have the opportunity to exercise reasonable control
34 over life decisions. The legislature finds that choice, participation,
35 privacy, and the opportunity to engage in religious, political, civic,
36 recreational, and other social activities foster a sense of self-worth
37 and enhance the quality of life for long-term care residents.

1 The legislature finds that the public interest would be best served
2 by providing the same basic resident rights in all long-term care
3 settings. Residents in nursing facilities are guaranteed certain
4 rights by federal law and regulation, 42 U.S.C. 1396r and 42 C.F.R.
5 part 483. It is the intent of the legislature to extend those basic
6 rights to residents in veterans' homes, (~~boarding homes~~) assisted
7 living facilities, and adult family homes.

8 The legislature intends that a facility should care for its
9 residents in a manner and in an environment that promotes maintenance
10 or enhancement of each resident's quality of life. A resident should
11 have a safe, clean, comfortable, and homelike environment, allowing the
12 resident to use his or her personal belongings to the extent possible.

13 **Sec. 59.** RCW 70.129.160 and 1998 c 245 s 113 are each amended to
14 read as follows:

15 The long-term care ombudsman shall monitor implementation of this
16 chapter and determine the degree to which veterans' homes, nursing
17 facilities, adult family homes, and (~~boarding homes~~) assisted living
18 facilities ensure that residents are able to exercise their rights.
19 The long-term care ombudsman shall consult with the departments of
20 health and social and health services, long-term care facility
21 organizations, resident groups, (~~and~~) senior (~~and disabled~~) citizen
22 organizations, and organizations concerning individuals with
23 disabilities.

24 **Sec. 60.** RCW 71.24.025 and 2008 c 261 s 2 are each amended to read
25 as follows:

26 Unless the context clearly requires otherwise, the definitions in
27 this section apply throughout this chapter.

28 (1) "Acutely mentally ill" means a condition which is limited to a
29 short-term severe crisis episode of:

30 (a) A mental disorder as defined in RCW 71.05.020 or, in the case
31 of a child, as defined in RCW 71.34.020;

32 (b) Being gravely disabled as defined in RCW 71.05.020 or, in the
33 case of a child, a gravely disabled minor as defined in RCW 71.34.020;
34 or

35 (c) Presenting a likelihood of serious harm as defined in RCW
36 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

1 (2) "Available resources" means funds appropriated for the purpose
2 of providing community mental health programs, federal funds, except
3 those provided according to Title XIX of the Social Security Act, and
4 state funds appropriated under this chapter or chapter 71.05 RCW by the
5 legislature during any biennium for the purpose of providing
6 residential services, resource management services, community support
7 services, and other mental health services. This does not include
8 funds appropriated for the purpose of operating and administering the
9 state psychiatric hospitals.

10 (3) "Child" means a person under the age of eighteen years.

11 (4) "Chronically mentally ill adult" or "adult who is chronically
12 mentally ill" means an adult who has a mental disorder and meets at
13 least one of the following criteria:

14 (a) Has undergone two or more episodes of hospital care for a
15 mental disorder within the preceding two years; or

16 (b) Has experienced a continuous psychiatric hospitalization or
17 residential treatment exceeding six months' duration within the
18 preceding year; or

19 (c) Has been unable to engage in any substantial gainful activity
20 by reason of any mental disorder which has lasted for a continuous
21 period of not less than twelve months. "Substantial gainful activity"
22 shall be defined by the department by rule consistent with Public Law
23 92-603, as amended.

24 (5) "Clubhouse" means a community-based program that provides
25 rehabilitation services and is certified by the department of social
26 and health services.

27 (6) "Community mental health program" means all mental health
28 services, activities, or programs using available resources.

29 (7) "Community mental health service delivery system" means public
30 or private agencies that provide services specifically to persons with
31 mental disorders as defined under RCW 71.05.020 and receive funding
32 from public sources.

33 (8) "Community support services" means services authorized,
34 planned, and coordinated through resource management services
35 including, at a minimum, assessment, diagnosis, emergency crisis
36 intervention available twenty-four hours, seven days a week,
37 prescreening determinations for persons who are mentally ill being
38 considered for placement in nursing homes as required by federal law,

1 screening for patients being considered for admission to residential
2 services, diagnosis and treatment for children who are acutely mentally
3 ill or severely emotionally disturbed discovered under screening
4 through the federal Title XIX early and periodic screening, diagnosis,
5 and treatment program, investigation, legal, and other nonresidential
6 services under chapter 71.05 RCW, case management services, psychiatric
7 treatment including medication supervision, counseling, psychotherapy,
8 assuring transfer of relevant patient information between service
9 providers, recovery services, and other services determined by regional
10 support networks.

11 (9) "Consensus-based" means a program or practice that has general
12 support among treatment providers and experts, based on experience or
13 professional literature, and may have anecdotal or case study support,
14 or that is agreed but not possible to perform studies with random
15 assignment and controlled groups.

16 (10) "County authority" means the board of county commissioners,
17 county council, or county executive having authority to establish a
18 community mental health program, or two or more of the county
19 authorities specified in this subsection which have entered into an
20 agreement to provide a community mental health program.

21 (11) "Department" means the department of social and health
22 services.

23 (12) "Designated mental health professional" means a mental health
24 professional designated by the county or other authority authorized in
25 rule to perform the duties specified in this chapter.

26 (13) "Emerging best practice" or "promising practice" means a
27 practice that presents, based on preliminary information, potential for
28 becoming a research-based or consensus-based practice.

29 (14) "Evidence-based" means a program or practice that has had
30 multiple site random controlled trials across heterogeneous populations
31 demonstrating that the program or practice is effective for the
32 population.

33 (15) "Licensed service provider" means an entity licensed according
34 to this chapter or chapter 71.05 RCW or an entity deemed to meet state
35 minimum standards as a result of accreditation by a recognized
36 behavioral health accrediting body recognized and having a current
37 agreement with the department, that meets state minimum standards or

1 persons licensed under chapter 18.57, 18.71, 18.83, or 18.79 RCW, as it
2 applies to registered nurses and advanced registered nurse
3 practitioners.

4 (16) "Long-term inpatient care" means inpatient services for
5 persons committed for, or voluntarily receiving intensive treatment
6 for, periods of ninety days or greater under chapter 71.05 RCW. "Long-
7 term inpatient care" as used in this chapter does not include: (a)
8 Services for individuals committed under chapter 71.05 RCW who are
9 receiving services pursuant to a conditional release or a court-ordered
10 less restrictive alternative to detention; or (b) services for
11 individuals voluntarily receiving less restrictive alternative
12 treatment on the grounds of the state hospital.

13 (17) "Mental health services" means all services provided by
14 regional support networks and other services provided by the state for
15 persons who are mentally ill.

16 (18) "Mentally ill persons," "persons who are mentally ill," and
17 "the mentally ill" mean persons and conditions defined in subsections
18 (1), (4), (27), and (28) of this section.

19 (19) "Recovery" means the process in which people are able to live,
20 work, learn, and participate fully in their communities.

21 (20) "Regional support network" means a county authority or group
22 of county authorities or other entity recognized by the secretary in
23 contract in a defined region.

24 (21) "Registration records" include all the records of the
25 department, regional support networks, treatment facilities, and other
26 persons providing services to the department, county departments, or
27 facilities which identify persons who are receiving or who at any time
28 have received services for mental illness.

29 (22) "Research-based" means a program or practice that has some
30 research demonstrating effectiveness, but that does not yet meet the
31 standard of evidence-based practices.

32 (23) "Residential services" means a complete range of residences
33 and supports authorized by resource management services and which may
34 involve a facility, a distinct part thereof, or services which support
35 community living, for persons who are acutely mentally ill, adults who
36 are chronically mentally ill, children who are severely emotionally
37 disturbed, or adults who are seriously disturbed and determined by the
38 regional support network to be at risk of becoming acutely or

1 chronically mentally ill. The services shall include at least
2 evaluation and treatment services as defined in chapter 71.05 RCW,
3 acute crisis respite care, long-term adaptive and rehabilitative care,
4 and supervised and supported living services, and shall also include
5 any residential services developed to service persons who are mentally
6 ill in nursing homes, (~~boarding homes~~) assisted living facilities,
7 and adult family homes, and may include outpatient services provided as
8 an element in a package of services in a supported housing model.
9 Residential services for children in out-of-home placements related to
10 their mental disorder shall not include the costs of food and shelter,
11 except for children's long-term residential facilities existing prior
12 to January 1, 1991.

13 (24) "Resilience" means the personal and community qualities that
14 enable individuals to rebound from adversity, trauma, tragedy, threats,
15 or other stresses, and to live productive lives.

16 (25) "Resource management services" mean the planning,
17 coordination, and authorization of residential services and community
18 support services administered pursuant to an individual service plan
19 for: (a) Adults and children who are acutely mentally ill; (b) adults
20 who are chronically mentally ill; (c) children who are severely
21 emotionally disturbed; or (d) adults who are seriously disturbed and
22 determined solely by a regional support network to be at risk of
23 becoming acutely or chronically mentally ill. Such planning,
24 coordination, and authorization shall include mental health screening
25 for children eligible under the federal Title XIX early and periodic
26 screening, diagnosis, and treatment program. Resource management
27 services include seven day a week, twenty-four hour a day availability
28 of information regarding enrollment of adults and children who are
29 mentally ill in services and their individual service plan to
30 designated mental health professionals, evaluation and treatment
31 facilities, and others as determined by the regional support network.

32 (26) "Secretary" means the secretary of social and health services.

33 (27) "Seriously disturbed person" means a person who:

34 (a) Is gravely disabled or presents a likelihood of serious harm to
35 himself or herself or others, or to the property of others, as a result
36 of a mental disorder as defined in chapter 71.05 RCW;

37 (b) Has been on conditional release status, or under a less

1 restrictive alternative order, at some time during the preceding two
2 years from an evaluation and treatment facility or a state mental
3 health hospital;

4 (c) Has a mental disorder which causes major impairment in several
5 areas of daily living;

6 (d) Exhibits suicidal preoccupation or attempts; or

7 (e) Is a child diagnosed by a mental health professional, as
8 defined in chapter 71.34 RCW, as experiencing a mental disorder which
9 is clearly interfering with the child's functioning in family or school
10 or with peers or is clearly interfering with the child's personality
11 development and learning.

12 (28) "Severely emotionally disturbed child" or "child who is
13 severely emotionally disturbed" means a child who has been determined
14 by the regional support network to be experiencing a mental disorder as
15 defined in chapter 71.34 RCW, including those mental disorders that
16 result in a behavioral or conduct disorder, that is clearly interfering
17 with the child's functioning in family or school or with peers and who
18 meets at least one of the following criteria:

19 (a) Has undergone inpatient treatment or placement outside of the
20 home related to a mental disorder within the last two years;

21 (b) Has undergone involuntary treatment under chapter 71.34 RCW
22 within the last two years;

23 (c) Is currently served by at least one of the following child-
24 serving systems: Juvenile justice, child-protection/welfare, special
25 education, or developmental disabilities;

26 (d) Is at risk of escalating maladjustment due to:

27 (i) Chronic family dysfunction involving a caretaker who is
28 mentally ill or inadequate;

29 (ii) Changes in custodial adult;

30 (iii) Going to, residing in, or returning from any placement
31 outside of the home, for example, psychiatric hospital, short-term
32 inpatient, residential treatment, group or foster home, or a
33 correctional facility;

34 (iv) Subject to repeated physical abuse or neglect;

35 (v) Drug or alcohol abuse; or

36 (vi) Homelessness.

37 (29) "State minimum standards" means minimum requirements
38 established by rules adopted by the secretary and necessary to

1 implement this chapter for: (a) Delivery of mental health services;
2 (b) licensed service providers for the provision of mental health
3 services; (c) residential services; and (d) community support services
4 and resource management services.

5 (30) "Treatment records" include registration and all other records
6 concerning persons who are receiving or who at any time have received
7 services for mental illness, which are maintained by the department, by
8 regional support networks and their staffs, and by treatment
9 facilities. Treatment records do not include notes or records
10 maintained for personal use by a person providing treatment services
11 for the department, regional support networks, or a treatment facility
12 if the notes or records are not available to others.

13 (31) "Tribal authority," for the purposes of this section and RCW
14 71.24.300 only, means: The federally recognized Indian tribes and the
15 major Indian organizations recognized by the secretary insofar as these
16 organizations do not have a financial relationship with any regional
17 support network that would present a conflict of interest.

18 **Sec. 61.** RCW 74.09.120 and 2010 c 94 s 23 are each amended to read
19 as follows:

20 The department shall purchase necessary physician and dentist
21 services by contract or "fee for service." The department shall
22 purchase nursing home care by contract and payment for the care shall
23 be in accordance with the provisions of chapter 74.46 RCW and rules
24 adopted by the department under the authority of RCW 74.46.800. No
25 payment shall be made to a nursing home which does not permit
26 inspection by the department of social and health services of every
27 part of its premises and an examination of all records, including
28 financial records, methods of administration, general and special
29 dietary programs, the disbursement of drugs and methods of supply, and
30 any other records the department deems relevant to the regulation of
31 nursing home operations, enforcement of standards for resident care,
32 and payment for nursing home services.

33 The department may purchase nursing home care by contract in
34 veterans' homes operated by the state department of veterans affairs
35 and payment for the care shall be in accordance with the provisions of
36 chapter 74.46 RCW and rules adopted by the department under the
37 authority of RCW 74.46.800.

1 The department may purchase care in institutions for persons with
2 intellectual disabilities, also known as intermediate care facilities
3 for persons with intellectual disabilities. The department shall
4 establish rules for reasonable accounting and reimbursement systems for
5 such care. Institutions for persons with intellectual disabilities
6 include licensed nursing homes, public institutions, licensed
7 (~~boarding homes~~) assisted living facilities with fifteen beds or
8 less, and hospital facilities certified as intermediate care facilities
9 for persons with intellectual disabilities under the federal medicaid
10 program to provide health, habilitative, or rehabilitative services and
11 twenty-four hour supervision for persons with intellectual disabilities
12 or related conditions and includes in the program "active treatment" as
13 federally defined.

14 The department may purchase care in institutions for mental
15 diseases by contract. The department shall establish rules for
16 reasonable accounting and reimbursement systems for such care.
17 Institutions for mental diseases are certified under the federal
18 medicaid program and primarily engaged in providing diagnosis,
19 treatment, or care to persons with mental diseases, including medical
20 attention, nursing care, and related services.

21 The department may purchase all other services provided under this
22 chapter by contract or at rates established by the department.

23 **Sec. 62.** RCW 74.15.020 and 2009 c 520 s 13 are each amended to
24 read as follows:

25 (~~For the purpose of~~) The definitions in this section apply
26 throughout this chapter and RCW 74.13.031(~~, and~~) unless the context
27 clearly requires otherwise (~~clearly indicated by the context thereof,~~
28 ~~the following terms shall mean:~~).

29 (1) "Agency" means any person, firm, partnership, association,
30 corporation, or facility which receives children, expectant mothers, or
31 persons with developmental disabilities for control, care, or
32 maintenance outside their own homes, or which places, arranges the
33 placement of, or assists in the placement of children, expectant
34 mothers, or persons with developmental disabilities for foster care or
35 placement of children for adoption, and shall include the following
36 irrespective of whether there is compensation to the agency or to the

1 children, expectant mothers or persons with developmental disabilities
2 for services rendered:

3 (a) "Child-placing agency" means an agency which places a child or
4 children for temporary care, continued care, or for adoption;

5 (b) "Community facility" means a group care facility operated for
6 the care of juveniles committed to the department under RCW 13.40.185.
7 A county detention facility that houses juveniles committed to the
8 department under RCW 13.40.185 pursuant to a contract with the
9 department is not a community facility;

10 (c) "Crisis residential center" means an agency which is a
11 temporary protective residential facility operated to perform the
12 duties specified in chapter 13.32A RCW, in the manner provided in RCW
13 74.13.032 through 74.13.036;

14 (d) "Emergency respite center" is an agency that may be commonly
15 known as a crisis nursery, that provides emergency and crisis care for
16 up to seventy-two hours to children who have been admitted by their
17 parents or guardians to prevent abuse or neglect. Emergency respite
18 centers may operate for up to twenty-four hours a day, and for up to
19 seven days a week. Emergency respite centers may provide care for
20 children ages birth through seventeen, and for persons eighteen through
21 twenty with developmental disabilities who are admitted with a sibling
22 or siblings through age seventeen. Emergency respite centers may not
23 substitute for crisis residential centers or HOPE centers, or any other
24 services defined under this section, and may not substitute for
25 services which are required under chapter 13.32A or 13.34 RCW;

26 (e) "Foster-family home" means an agency which regularly provides
27 care on a twenty-four hour basis to one or more children, expectant
28 mothers, or persons with developmental disabilities in the family abode
29 of the person or persons under whose direct care and supervision the
30 child, expectant mother, or person with a developmental disability is
31 placed;

32 (f) "Group-care facility" means an agency, other than a foster-
33 family home, which is maintained and operated for the care of a group
34 of children on a twenty-four hour basis;

35 (g) "HOPE center" means an agency licensed by the secretary to
36 provide temporary residential placement and other services to street
37 youth. A street youth may remain in a HOPE center for thirty days
38 while services are arranged and permanent placement is coordinated. No

1 street youth may stay longer than thirty days unless approved by the
2 department and any additional days approved by the department must be
3 based on the unavailability of a long-term placement option. A street
4 youth whose parent wants him or her returned to home may remain in a
5 HOPE center until his or her parent arranges return of the youth, not
6 longer. All other street youth must have court approval under chapter
7 13.34 or 13.32A RCW to remain in a HOPE center up to thirty days;

8 (h) "Maternity service" means an agency which provides or arranges
9 for care or services to expectant mothers, before or during
10 confinement, or which provides care as needed to mothers and their
11 infants after confinement;

12 (i) "Responsible living skills program" means an agency licensed by
13 the secretary that provides residential and transitional living
14 services to persons ages sixteen to eighteen who are dependent under
15 chapter 13.34 RCW and who have been unable to live in his or her
16 legally authorized residence and, as a result, the minor lived outdoors
17 or in another unsafe location not intended for occupancy by the minor.
18 Dependent minors ages fourteen and fifteen may be eligible if no other
19 placement alternative is available and the department approves the
20 placement;

21 (j) "Service provider" means the entity that operates a community
22 facility.

23 (2) "Agency" shall not include the following:

24 (a) Persons related to the child, expectant mother, or person with
25 developmental disability in the following ways:

26 (i) Any blood relative, including those of half-blood, and
27 including first cousins, second cousins, nephews or nieces, and persons
28 of preceding generations as denoted by prefixes of grand, great, or
29 great-great;

30 (ii) Stepfather, stepmother, stepbrother, and stepsister;

31 (iii) A person who legally adopts a child or the child's parent as
32 well as the natural and other legally adopted children of such persons,
33 and other relatives of the adoptive parents in accordance with state
34 law;

35 (iv) Spouses of any persons named in (i), (ii), or (iii) of this
36 subsection (2)(a), even after the marriage is terminated;

37 (v) Relatives, as named in (i), (ii), (iii), or (iv) of this
38 subsection (2)(a), of any half sibling of the child; or

1 (vi) Extended family members, as defined by the law or custom of
2 the Indian child's tribe or, in the absence of such law or custom, a
3 person who has reached the age of eighteen and who is the Indian
4 child's grandparent, aunt or uncle, brother or sister, brother-in-law
5 or sister-in-law, niece or nephew, first or second cousin, or
6 stepparent who provides care in the family abode on a twenty-four-hour
7 basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4);

8 (b) Persons who are legal guardians of the child, expectant mother,
9 or persons with developmental disabilities;

10 (c) Persons who care for a neighbor's or friend's child or
11 children, with or without compensation, where the parent and person
12 providing care on a twenty-four-hour basis have agreed to the placement
13 in writing and the state is not providing any payment for the care;

14 (d) A person, partnership, corporation, or other entity that
15 provides placement or similar services to exchange students or
16 international student exchange visitors or persons who have the care of
17 an exchange student in their home;

18 (e) A person, partnership, corporation, or other entity that
19 provides placement or similar services to international children who
20 have entered the country by obtaining visas that meet the criteria for
21 medical care as established by the United States citizenship and
22 immigration services, or persons who have the care of such an
23 international child in their home;

24 (f) Schools, including boarding schools, which are engaged
25 primarily in education, operate on a definite school year schedule,
26 follow a stated academic curriculum, accept only school-age children
27 and do not accept custody of children;

28 (g) Hospitals licensed pursuant to chapter 70.41 RCW when
29 performing functions defined in chapter 70.41 RCW, nursing homes
30 licensed under chapter 18.51 RCW and (~~boarding homes~~) assisted living
31 facilities licensed under chapter 18.20 RCW;

32 (h) Licensed physicians or lawyers;

33 (i) Facilities approved and certified under chapter 71A.22 RCW;

34 (j) Any agency having been in operation in this state ten years
35 prior to June 8, 1967, and not seeking or accepting moneys or
36 assistance from any state or federal agency, and is supported in part
37 by an endowment or trust fund;

1 (k) Persons who have a child in their home for purposes of
2 adoption, if the child was placed in such home by a licensed child-
3 placing agency, an authorized public or tribal agency or court or if a
4 replacement report has been filed under chapter 26.33 RCW and the
5 placement has been approved by the court;

6 (l) An agency operated by any unit of local, state, or federal
7 government or an agency licensed by an Indian tribe pursuant to RCW
8 74.15.190;

9 (m) A maximum or medium security program for juvenile offenders
10 operated by or under contract with the department;

11 (n) An agency located on a federal military reservation, except
12 where the military authorities request that such agency be subject to
13 the licensing requirements of this chapter.

14 (3) "Department" means the state department of social and health
15 services.

16 (4) "Juvenile" means a person under the age of twenty-one who has
17 been sentenced to a term of confinement under the supervision of the
18 department under RCW 13.40.185.

19 (5) "Performance-based contracts" or "contracting" means the
20 structuring of all aspects of the procurement of services around the
21 purpose of the work to be performed and the desired results with the
22 contract requirements set forth in clear, specific, and objective terms
23 with measurable outcomes. Contracts may also include provisions that
24 link the performance of the contractor to the level and timing of the
25 reimbursement.

26 (6) "Probationary license" means a license issued as a disciplinary
27 measure to an agency that has previously been issued a full license but
28 is out of compliance with licensing standards.

29 (7) "Requirement" means any rule, regulation, or standard of care
30 to be maintained by an agency.

31 (8) "Secretary" means the secretary of social and health services.

32 (9) "Street youth" means a person under the age of eighteen who
33 lives outdoors or in another unsafe location not intended for occupancy
34 by the minor and who is not residing with his or her parent or at his
35 or her legally authorized residence.

36 (10) "Supervising agency" means an agency licensed by the state
37 under RCW 74.15.090 or an Indian tribe under RCW 74.15.190 that has

1 entered into a performance-based contract with the department to
2 provide child welfare services.

3 (11) "Transitional living services" means at a minimum, to the
4 extent funds are available, the following:

5 (a) Educational services, including basic literacy and
6 computational skills training, either in local alternative or public
7 high schools or in a high school equivalency program that leads to
8 obtaining a high school equivalency degree;

9 (b) Assistance and counseling related to obtaining vocational
10 training or higher education, job readiness, job search assistance, and
11 placement programs;

12 (c) Counseling and instruction in life skills such as money
13 management, home management, consumer skills, parenting, health care,
14 access to community resources, and transportation and housing options;

15 (d) Individual and group counseling; and

16 (e) Establishing networks with federal agencies and state and local
17 organizations such as the United States department of labor, employment
18 and training administration programs including the workforce investment
19 act which administers private industry councils and the job corps;
20 vocational rehabilitation; and volunteer programs.

21 **Sec. 63.** RCW 74.34.020 and 2010 c 133 s 2 are each amended to read
22 as follows:

23 (~~Unless the context clearly requires otherwise,~~) The definitions
24 in this section apply throughout this chapter unless the context
25 clearly requires otherwise.

26 (1) "Abandonment" means action or inaction by a person or entity
27 with a duty of care for a vulnerable adult that leaves the vulnerable
28 person without the means or ability to obtain necessary food, clothing,
29 shelter, or health care.

30 (2) "Abuse" means the willful action or inaction that inflicts
31 injury, unreasonable confinement, intimidation, or punishment on a
32 vulnerable adult. In instances of abuse of a vulnerable adult who is
33 unable to express or demonstrate physical harm, pain, or mental
34 anguish, the abuse is presumed to cause physical harm, pain, or mental
35 anguish. Abuse includes sexual abuse, mental abuse, physical abuse,
36 and exploitation of a vulnerable adult, which have the following
37 meanings:

1 (a) "Sexual abuse" means any form of nonconsensual sexual contact,
2 including but not limited to unwanted or inappropriate touching, rape,
3 sodomy, sexual coercion, sexually explicit photographing, and sexual
4 harassment. Sexual abuse includes any sexual contact between a staff
5 person, who is not also a resident or client, of a facility or a staff
6 person of a program authorized under chapter 71A.12 RCW, and a
7 vulnerable adult living in that facility or receiving service from a
8 program authorized under chapter 71A.12 RCW, whether or not it is
9 consensual.

10 (b) "Physical abuse" means the willful action of inflicting bodily
11 injury or physical mistreatment. Physical abuse includes, but is not
12 limited to, striking with or without an object, slapping, pinching,
13 choking, kicking, shoving, prodding, or the use of chemical restraints
14 or physical restraints unless the restraints are consistent with
15 licensing requirements, and includes restraints that are otherwise
16 being used inappropriately.

17 (c) "Mental abuse" means any willful action or inaction of mental
18 or verbal abuse. Mental abuse includes, but is not limited to,
19 coercion, harassment, inappropriately isolating a vulnerable adult from
20 family, friends, or regular activity, and verbal assault that includes
21 ridiculing, intimidating, yelling, or swearing.

22 (d) "Exploitation" means an act of forcing, compelling, or exerting
23 undue influence over a vulnerable adult causing the vulnerable adult to
24 act in a way that is inconsistent with relevant past behavior, or
25 causing the vulnerable adult to perform services for the benefit of
26 another.

27 (3) "Consent" means express written consent granted after the
28 vulnerable adult or his or her legal representative has been fully
29 informed of the nature of the services to be offered and that the
30 receipt of services is voluntary.

31 (4) "Department" means the department of social and health
32 services.

33 (5) "Facility" means a residence licensed or required to be
34 licensed under chapter 18.20 RCW, (~~boarding homes~~) assisted living
35 facilities; chapter 18.51 RCW, nursing homes; chapter 70.128 RCW, adult
36 family homes; chapter 72.36 RCW, soldiers' homes; or chapter 71A.20
37 RCW, residential habilitation centers; or any other facility licensed
38 by the department.

1 (6) "Financial exploitation" means the illegal or improper use of
2 the property, income, resources, or trust funds of the vulnerable adult
3 by any person for any person's profit or advantage other than for the
4 vulnerable adult's profit or advantage.

5 (7) "Financial institution" has the same meaning as in RCW
6 30.22.040 and 30.22.041. For purposes of this chapter only, "financial
7 institution" also means a "broker-dealer" or "investment adviser" as
8 defined in RCW 21.20.005.

9 (8) "Incapacitated person" means a person who is at a significant
10 risk of personal or financial harm under RCW 11.88.010(1) (a), (b),
11 (c), or (d).

12 (9) "Individual provider" means a person under contract with the
13 department to provide services in the home under chapter 74.09 or
14 74.39A RCW.

15 (10) "Interested person" means a person who demonstrates to the
16 court's satisfaction that the person is interested in the welfare of
17 the vulnerable adult, that the person has a good faith belief that the
18 court's intervention is necessary, and that the vulnerable adult is
19 unable, due to incapacity, undue influence, or duress at the time the
20 petition is filed, to protect his or her own interests.

21 (11) "Mandated reporter" is an employee of the department; law
22 enforcement officer; social worker; professional school personnel;
23 individual provider; an employee of a facility; an operator of a
24 facility; an employee of a social service, welfare, mental health,
25 adult day health, adult day care, home health, home care, or hospice
26 agency; county coroner or medical examiner; Christian Science
27 practitioner; or health care provider subject to chapter 18.130 RCW.

28 (12) "Neglect" means (a) a pattern of conduct or inaction by a
29 person or entity with a duty of care that fails to provide the goods
30 and services that maintain physical or mental health of a vulnerable
31 adult, or that fails to avoid or prevent physical or mental harm or
32 pain to a vulnerable adult; or (b) an act or omission that demonstrates
33 a serious disregard of consequences of such a magnitude as to
34 constitute a clear and present danger to the vulnerable adult's health,
35 welfare, or safety, including but not limited to conduct prohibited
36 under RCW 9A.42.100.

37 (13) "Permissive reporter" means any person, including, but not

1 limited to, an employee of a financial institution, attorney, or
2 volunteer in a facility or program providing services for vulnerable
3 adults.

4 (14) "Protective services" means any services provided by the
5 department to a vulnerable adult with the consent of the vulnerable
6 adult, or the legal representative of the vulnerable adult, who has
7 been abandoned, abused, financially exploited, neglected, or in a state
8 of self-neglect. These services may include, but are not limited to
9 case management, social casework, home care, placement, arranging for
10 medical evaluations, psychological evaluations, day care, or referral
11 for legal assistance.

12 (15) "Self-neglect" means the failure of a vulnerable adult, not
13 living in a facility, to provide for himself or herself the goods and
14 services necessary for the vulnerable adult's physical or mental
15 health, and the absence of which impairs or threatens the vulnerable
16 adult's well-being. This definition may include a vulnerable adult who
17 is receiving services through home health, hospice, or a home care
18 agency, or an individual provider when the neglect is not a result of
19 inaction by that agency or individual provider.

20 (16) "Vulnerable adult" includes a person:

21 (a) Sixty years of age or older who has the functional, mental, or
22 physical inability to care for himself or herself; or

23 (b) Found incapacitated under chapter 11.88 RCW; or

24 (c) Who has a developmental disability as defined under RCW
25 71A.10.020; or

26 (d) Admitted to any facility; or

27 (e) Receiving services from home health, hospice, or home care
28 agencies licensed or required to be licensed under chapter 70.127 RCW;
29 or

30 (f) Receiving services from an individual provider.

31 **Sec. 64.** RCW 74.39A.009 and 2009 c 580 s 1 are each amended to
32 read as follows:

33 (~~Unless the context clearly requires otherwise,~~) The definitions
34 in this section apply throughout this chapter unless the context
35 clearly requires otherwise.

36 (1) "Adult family home" means a home licensed under chapter 70.128
37 RCW.

1 (2) "Adult residential care" means services provided by ((
2 ~~boarding home~~)) an assisted living facility that is licensed under
3 chapter 18.20 RCW and that has a contract with the department under RCW
4 74.39A.020 to provide personal care services.

5 (3) "Assisted living services" means services provided by ((
6 ~~boarding home~~)) an assisted living facility that has a contract with
7 the department under RCW 74.39A.010 to provide personal care services,
8 intermittent nursing services, and medication administration services,
9 and the resident is housed in a private apartment-like unit.

10 (4) "((~~Boarding home~~)) Assisted living facility" means a facility
11 licensed under chapter 18.20 RCW.

12 (5) "Core competencies" means basic training topics, including but
13 not limited to, communication skills, worker self-care, problem
14 solving, maintaining dignity, consumer directed care, cultural
15 sensitivity, body mechanics, fall prevention, skin and body care, long-
16 term care worker roles and boundaries, supporting activities of daily
17 living, and food preparation and handling.

18 (6) "Cost-effective care" means care provided in a setting of an
19 individual's choice that is necessary to promote the most appropriate
20 level of physical, mental, and psychosocial well-being consistent with
21 client choice, in an environment that is appropriate to the care and
22 safety needs of the individual, and such care cannot be provided at a
23 lower cost in any other setting. But this in no way precludes an
24 individual from choosing a different residential setting to achieve his
25 or her desired quality of life.

26 (7) "Department" means the department of social and health
27 services.

28 (8) "Developmental disability" has the same meaning as defined in
29 RCW 71A.10.020.

30 (9) "Direct care worker" means a paid caregiver who provides
31 direct, hands-on personal care services to persons with disabilities or
32 the elderly requiring long-term care.

33 (10) "Enhanced adult residential care" means services provided by
34 ((~~a boarding home~~)) an assisted living facility that is licensed under
35 chapter 18.20 RCW and that has a contract with the department under RCW
36 74.39A.010 to provide personal care services, intermittent nursing
37 services, and medication administration services.

1 (11) "Functionally disabled person" or "person who is functionally
2 disabled" is synonymous with chronic functionally disabled and means a
3 person who because of a recognized chronic physical or mental condition
4 or disease, or developmental disability, including chemical dependency,
5 is impaired to the extent of being dependent upon others for direct
6 care, support, supervision, or monitoring to perform activities of
7 daily living. "Activities of daily living", in this context, means
8 self-care abilities related to personal care such as bathing, eating,
9 using the toilet, dressing, and transfer. Instrumental activities of
10 daily living may also be used to assess a person's functional abilities
11 as they are related to the mental capacity to perform activities in the
12 home and the community such as cooking, shopping, house cleaning, doing
13 laundry, working, and managing personal finances.

14 (12) "Home and community services" means adult family homes, in-
15 home services, and other services administered or provided by contract
16 by the department directly or through contract with area agencies on
17 aging or similar services provided by facilities and agencies licensed
18 by the department.

19 (13) "Home care aide" means a long-term care worker who has
20 obtained certification as a home care aide by the department of health.

21 (14) "Individual provider" is defined according to RCW 74.39A.240.

22 (15) "Long-term care" is synonymous with chronic care and means
23 care and supports delivered indefinitely, intermittently, or over a
24 sustained time to persons of any age disabled by chronic mental or
25 physical illness, disease, chemical dependency, or a medical condition
26 that is permanent, not reversible or curable, or is long-lasting and
27 severely limits their mental or physical capacity for self-care. The
28 use of this definition is not intended to expand the scope of services,
29 care, or assistance by any individuals, groups, residential care
30 settings, or professions unless otherwise expressed by law.

31 (16)(a) "Long-term care workers for the elderly or persons with
32 disabilities" or "long-term care workers" includes all persons who are
33 long-term care workers for the elderly or persons with disabilities,
34 including but not limited to individual providers of home care
35 services, direct care employees of home care agencies, providers of
36 home care services to persons with developmental disabilities under
37 Title 71 RCW, all direct care workers in state-licensed (~~boarding~~
38 ~~homes~~) assisted living facilities, and adult family homes, respite

1 care providers, community residential service providers, and any other
2 direct care worker providing home or community-based services to the
3 elderly or persons with functional disabilities or developmental
4 disabilities.

5 (b) "Long-term care workers" do not include: (i) Persons employed
6 by the following facilities or agencies: Nursing homes subject to
7 chapter 18.51 RCW, hospitals or other acute care settings, residential
8 habilitation centers under chapter 71A.20 RCW, facilities certified
9 under 42 C.F.R., Part 483, hospice agencies subject to chapter 70.127
10 RCW, adult day care centers, and adult day health care centers; or (ii)
11 persons who are not paid by the state or by a private agency or
12 facility licensed by the state to provide personal care services.

13 (17) "Nursing home" means a facility licensed under chapter 18.51
14 RCW.

15 (18) "Personal care services" means physical or verbal assistance
16 with activities of daily living and instrumental activities of daily
17 living provided because of a person's functional disability.

18 (19) "Population specific competencies" means basic training topics
19 unique to the care needs of the population the long-term care worker is
20 serving, including but not limited to, mental health, dementia,
21 developmental disabilities, young adults with physical disabilities,
22 and older adults.

23 (20) "Qualified instructor" means a registered nurse or other
24 person with specific knowledge, training, and work experience in the
25 provision of direct, hands-on personal care and other assistance
26 services to the elderly or persons with disabilities requiring
27 long-term care.

28 (21) "Secretary" means the secretary of social and health services.

29 (22) "Secretary of health" means the secretary of health or the
30 secretary's designee.

31 (23) "Training partnership" means a joint partnership or trust that
32 includes the office of the governor and the exclusive bargaining
33 representative of individual providers under RCW 74.39A.270 with the
34 capacity to provide training, peer mentoring, and workforce
35 development, or other services to individual providers.

36 (24) "Tribally licensed (~~(boarding home)~~) assisted living facility"
37 means (~~(a boarding home)~~) an assisted living facility licensed by a

1 federally recognized Indian tribe in which ((home)) a facility provides
2 services similar to ((boarding-homes)) assisted living facilities
3 licensed under chapter 18.20 RCW.

4 **Sec. 65.** RCW 74.39A.010 and 1995 1st sp.s. c 18 s 14 are each
5 amended to read as follows:

6 (1) To the extent of available funding, the department of social
7 and health services may contract with licensed ((boarding-homes))
8 assisted living facilities under chapter 18.20 RCW and tribally
9 licensed ((boarding-homes)) assisted living facilities for assisted
10 living services and enhanced adult residential care. The department
11 shall develop rules for facilities that contract with the department
12 for assisted living services or enhanced adult residential care to
13 establish:

14 (a) Facility service standards consistent with the principles in
15 RCW 74.39A.050 and consistent with chapter 70.129 RCW;

16 (b) Standards for resident living areas consistent with RCW
17 74.39A.030;

18 (c) Training requirements for providers and their staff.

19 (2) The department's rules shall provide that services in assisted
20 living and enhanced adult residential care:

21 (a) Recognize individual needs, privacy, and autonomy;

22 (b) Include, but not be limited to, personal care, nursing
23 services, medication administration, and supportive services that
24 promote independence and self-sufficiency;

25 (c) Are of sufficient scope to assure that each resident who
26 chooses to remain in the assisted living or enhanced adult residential
27 care may do so, to the extent that the care provided continues to be
28 cost-effective and safe and promote the most appropriate level of
29 physical, mental, and psychosocial well-being consistent with client
30 choice;

31 (d) Are directed first to those persons most likely, in the absence
32 of enhanced adult residential care or assisted living services, to need
33 hospital, nursing facility, or other out-of-home placement; and

34 (e) Are provided in compliance with applicable facility and
35 professional licensing laws and rules.

36 (3) When a facility contracts with the department for assisted
37 living services or enhanced adult residential care, only services and

1 facility standards that are provided to or in behalf of the assisted
2 living services or enhanced adult residential care client shall be
3 subject to the department's rules.

4 **Sec. 66.** RCW 74.39A.020 and 2004 c 142 s 15 are each amended to
5 read as follows:

6 (1) To the extent of available funding, the department of social
7 and health services may contract for adult residential care.

8 (2) The department shall, by rule, develop terms and conditions for
9 facilities that contract with the department for adult residential care
10 to establish:

11 (a) Facility service standards consistent with the principles in
12 RCW 74.39A.050 and consistent with chapter 70.129 RCW; and

13 (b) Training requirements for providers and their staff.

14 (3) The department shall, by rule, provide that services in adult
15 residential care facilities:

16 (a) Recognize individual needs, privacy, and autonomy;

17 (b) Include personal care and other services that promote
18 independence and self-sufficiency and aging in place;

19 (c) Are directed first to those persons most likely, in the absence
20 of adult residential care services, to need hospital, nursing facility,
21 or other out-of-home placement; and

22 (d) Are provided in compliance with applicable facility and
23 professional licensing laws and rules.

24 (4) When a facility contracts with the department for adult
25 residential care, only services and facility standards that are
26 provided to or in behalf of the adult residential care client shall be
27 subject to the adult residential care rules.

28 (5) To the extent of available funding, the department may also
29 contract under this section with a tribally licensed (~~boarding home~~)
30 assisted living facility for the provision of services of the same
31 nature as the services provided by adult residential care facilities.
32 The provisions of subsections (2)(a) and (b) and (3)(a) through (d) of
33 this section apply to such a contract.

34 **Sec. 67.** RCW 74.39A.030 and 2002 c 3 s 10 are each amended to read
35 as follows:

1 (1) To the extent of available funding, the department shall expand
2 cost-effective options for home and community services for consumers
3 for whom the state participates in the cost of their care.

4 (2) In expanding home and community services, the department shall:

5 (a) Take full advantage of federal funding available under Title XVIII
6 and Title XIX of the federal social security act, including home
7 health, adult day care, waiver options, and state plan services; and

8 (b) be authorized to use funds available under its community options
9 program entry system waiver granted under section 1915(c) of the
10 federal social security act to expand the availability of in-home,
11 adult residential care, adult family homes, enhanced adult residential
12 care, and assisted living services. By June 30, 1997, the department
13 shall undertake to reduce the nursing home medicaid census by at least
14 one thousand six hundred by assisting individuals who would otherwise
15 require nursing facility services to obtain services of their choice,
16 including assisted living services, enhanced adult residential care,
17 and other home and community services. If a resident, or his or her
18 legal representative, objects to a discharge decision initiated by the
19 department, the resident shall not be discharged if the resident has
20 been assessed and determined to require nursing facility services. In
21 contracting with nursing homes and (~~boarding homes~~) assisted living
22 facilities for enhanced adult residential care placements, the
23 department shall not require, by contract or through other means,
24 structural modifications to existing building construction.

25 (3)(a) The department shall by rule establish payment rates for
26 home and community services that support the provision of cost-
27 effective care. In the event of any conflict between any such rule and
28 a collective bargaining agreement entered into under RCW 74.39A.270 and
29 74.39A.300, the collective bargaining agreement prevails.

30 (b) The department may authorize an enhanced adult residential care
31 rate for nursing homes that temporarily or permanently convert their
32 bed use for the purpose of providing enhanced adult residential care
33 under chapter 70.38 RCW, when the department determines that payment of
34 an enhanced rate is cost-effective and necessary to foster expansion of
35 contracted enhanced adult residential care services. As an incentive
36 for nursing homes to permanently convert a portion of its nursing home
37 bed capacity for the purpose of providing enhanced adult residential

1 care, the department may authorize a supplemental add-on to the
2 enhanced adult residential care rate.

3 (c) The department may authorize a supplemental assisted living
4 services rate for up to four years for facilities that convert from
5 nursing home use and do not retain rights to the converted nursing home
6 beds under chapter 70.38 RCW, if the department determines that payment
7 of a supplemental rate is cost-effective and necessary to foster
8 expansion of contracted assisted living services.

9 **Sec. 68.** RCW 74.39A.320 and 2006 c 260 s 1 are each amended to
10 read as follows:

11 (1) To the extent funds are appropriated for this purpose, the
12 department shall establish a capital add-on rate, not less than the
13 July 1, 2005, capital add-on rate established by the department, for
14 those assisted living facilities contracting with the department that
15 have a medicaid occupancy percentage of sixty percent or greater.

16 (2) Effective for July 1, 2006, and for each July 1st rate-setting
17 period thereafter, the department shall determine the facility's
18 medicaid occupancy percentage using the last six months' medicaid
19 resident days from the preceding calendar year divided by the product
20 of all its licensed (~~(boarding-home)~~) assisted living facility beds
21 irrespective of use, times calendar days for the six-month period. For
22 the purposes of this section, medicaid resident days include those
23 clients who are enrolled in a medicaid managed long-term care program,
24 including but not limited to the program for all inclusive care and the
25 medicaid integration project.

26 (3) The medicaid occupancy percentage established beginning on July
27 1, 2006, and for each July 1st thereafter, shall be used to determine
28 whether an assisted living facility qualifies for the capital add-on
29 rate under this section. Those facilities that qualify for the capital
30 add-on rate shall receive the capital add-on rate throughout the
31 applicable fiscal year.

32 **Sec. 69.** RCW 74.41.040 and 2008 c 146 s 2 are each amended to read
33 as follows:

34 The department shall administer this chapter and shall establish
35 such rules and standards as the department deems necessary in carrying
36 out this chapter. The department shall not require the development of

1 plans of care or discharge plans by nursing homes or adult family homes
2 providing respite care service under this chapter. (~~Boarding homes~~)
3 Assisted living facilities providing respite care services shall comply
4 with the assessment and plan of care provisions of RCW 18.20.350.

5 The department shall develop standards for the respite program in
6 conjunction with the selected area agencies on aging. The program
7 standards shall serve as the basis for soliciting bids, entering into
8 subcontracts, and developing sliding fee scales to be used in
9 determining the ability of eligible participants to participate in
10 paying for respite care.

11 **Sec. 70.** RCW 74.42.055 and 2004 c 34 s 1 are each amended to read
12 as follows:

13 (1) The purpose of this section is to prohibit discrimination
14 against medicaid recipients by nursing homes which have contracted with
15 the department to provide skilled or intermediate nursing care services
16 to medicaid recipients.

17 (2) A nursing facility shall readmit a resident, who has been
18 hospitalized or on therapeutic leave, immediately to the first
19 available bed in a semiprivate room if the resident:

20 (a) Requires the services provided by the facility; and

21 (b) Is eligible for medicaid nursing facility services.

22 (3) It shall be unlawful for any nursing home which has a medicaid
23 contract with the department:

24 (a) To require, as a condition of admission, assurance from the
25 patient or any other person that the patient is not eligible for or
26 will not apply for medicaid;

27 (b) To deny or delay admission or readmission of a person to a
28 nursing home because of his or her status as a medicaid recipient;

29 (c) To transfer a patient, except from a private room to another
30 room within the nursing home, because of his or her status as a
31 medicaid recipient;

32 (d) To transfer a patient to another nursing home because of his or
33 her status as a medicaid recipient;

34 (e) To discharge a patient from a nursing home because of his or
35 her status as a medicaid recipient; or

36 (f) To charge any amounts in excess of the medicaid rate from the

1 date of eligibility, except for any supplementation permitted by the
2 department pursuant to RCW 18.51.070.

3 (4) Any nursing home which has a medicaid contract with the
4 department shall maintain one list of names of persons seeking
5 admission to the facility, which is ordered by the date of request for
6 admission. This information shall be retained for one year from the
7 month admission was requested. However, except as provided in
8 subsection (2) of this section, a nursing facility is permitted to give
9 preferential admission to individuals who seek admission from ((a
10 ~~boarding home~~)) an assisted living facility, licensed under chapter
11 18.20 RCW, or from independent retirement housing, provided the nursing
12 facility is owned by the same entity that owns the ((~~boarding home~~))
13 assisted living facility or independent housing which are located
14 within the same proximate geographic area; and provided further, the
15 purpose of such preferential admission is to allow continued provision
16 of: (a) Culturally or faith-based services, or (b) services provided
17 by a continuing care retirement community as defined in RCW 70.38.025.

18 (5) The department may assess monetary penalties of a civil nature,
19 not to exceed three thousand dollars for each violation of this
20 section.

21 (6) Because it is a matter of great public importance to protect
22 senior citizens who need medicaid services from discriminatory
23 treatment in obtaining long-term health care, any violation of this
24 section shall be construed for purposes of the application of the
25 consumer protection act, chapter 19.86 RCW, to constitute an unfair or
26 deceptive act or practice or unfair method of competition in the
27 conduct of trade or commerce.

28 (7) It is not an act of discrimination under this chapter to refuse
29 to admit a patient if admitting that patient would prevent the needs of
30 the other patients residing in that facility from being met at that
31 facility, or if the facility's refusal is consistent with subsection
32 (4) of this section.

33 **Sec. 71.** RCW 82.04.2908 and 2005 c 514 s 302 are each amended to
34 read as follows:

35 (1) Upon every person engaging within this state in the business of
36 providing room and domiciliary care to residents of ((~~a boarding home~~))

1 an assisted living facility licensed under chapter 18.20 RCW, the
2 amount of tax with respect to such business shall be equal to the gross
3 income of the business, multiplied by the rate of 0.275 percent.

4 (2) For the purposes of this section, "domiciliary care" has the
5 meaning provided in RCW 18.20.020.

6 **Sec. 72.** RCW 82.04.4264 and 2005 c 514 s 301 are each amended to
7 read as follows:

8 (1) This chapter does not apply to amounts received by a nonprofit
9 (~~(boarding home)~~) assisted living facility licensed under chapter 18.20
10 RCW for providing room and domiciliary care to residents of the
11 (~~(boarding home)~~) assisted living facility.

12 (2) As used in this section:

13 (a) "Domiciliary care" has the meaning provided in RCW 18.20.020.

14 (b) "Nonprofit (~~(boarding home)~~) assisted living facility" means
15 (~~(a boarding home)~~) an assisted living facility that is operated as a
16 religious or charitable organization, is exempt from federal income tax
17 under 26 U.S.C. Sec. 501(c)(3), is incorporated under chapter 24.03
18 RCW, is operated as part of a nonprofit hospital, or is operated as
19 part of a public hospital district.

20 **Sec. 73.** RCW 82.04.4337 and 2004 c 174 s 7 are each amended to
21 read as follows:

22 (1) (~~(A boarding home)~~) An assisted living facility licensed under
23 chapter 18.20 RCW may deduct from the measure of tax amounts received
24 as compensation for providing adult residential care, enhanced adult
25 residential care, or assisted living services under contract with the
26 department of social and health services authorized by chapter 74.39A
27 RCW to residents who are medicaid recipients.

28 (2) For purposes of this section, "adult residential care,"
29 "enhanced adult residential care," and "assisted living services" have
30 the same meaning as in RCW 74.39A.009.

31 **Sec. 74.** RCW 84.36.381 and 2010 c 106 s 306 are each amended to
32 read as follows:

33 A person is exempt from any legal obligation to pay all or a
34 portion of the amount of excess and regular real property taxes due and

1 payable in the year following the year in which a claim is filed, and
2 thereafter, in accordance with the following:

3 (1) The property taxes must have been imposed upon a residence
4 which was occupied by the person claiming the exemption as a principal
5 place of residence as of the time of filing. However, any person who
6 sells, transfers, or is displaced from his or her residence may
7 transfer his or her exemption status to a replacement residence, but no
8 claimant may receive an exemption on more than one residence in any
9 year. Moreover, confinement of the person to a hospital, nursing home,
10 (~~boarding home~~) assisted living facility, or adult family home does
11 not disqualify the claim of exemption if:

12 (a) The residence is temporarily unoccupied;

13 (b) The residence is occupied by a spouse or a domestic partner
14 and/or a person financially dependent on the claimant for support; or

15 (c) The residence is rented for the purpose of paying nursing home,
16 hospital, (~~boarding home~~) assisted living facility, or adult family
17 home costs;

18 (2) The person claiming the exemption must have owned, at the time
19 of filing, in fee, as a life estate, or by contract purchase, the
20 residence on which the property taxes have been imposed or if the
21 person claiming the exemption lives in a cooperative housing
22 association, corporation, or partnership, such person must own a share
23 therein representing the unit or portion of the structure in which he
24 or she resides. For purposes of this subsection, a residence owned by
25 a marital community or state registered domestic partnership or owned
26 by cotenants is deemed to be owned by each spouse or each domestic
27 partner or each cotenant, and any lease for life is deemed a life
28 estate;

29 (3) The person claiming the exemption must be (a) sixty-one years
30 of age or older on December 31st of the year in which the exemption
31 claim is filed, or must have been, at the time of filing, retired from
32 regular gainful employment by reason of disability, or (b) a veteran of
33 the armed forces of the United States with one hundred percent service-
34 connected disability as provided in 42 U.S.C. Sec. 423 (d)(1)(A) as
35 amended prior to January 1, 2005, or such subsequent date as the
36 department may provide by rule consistent with the purpose of this
37 section. However, any surviving spouse or surviving domestic partner
38 of a person who was receiving an exemption at the time of the person's

1 death will qualify if the surviving spouse or surviving domestic
2 partner is fifty-seven years of age or older and otherwise meets the
3 requirements of this section;

4 (4) The amount that the person is exempt from an obligation to pay
5 is calculated on the basis of combined disposable income, as defined in
6 RCW 84.36.383. If the person claiming the exemption was retired for
7 two months or more of the assessment year, the combined disposable
8 income of such person must be calculated by multiplying the average
9 monthly combined disposable income of such person during the months
10 such person was retired by twelve. If the income of the person
11 claiming exemption is reduced for two or more months of the assessment
12 year by reason of the death of the person's spouse or the person's
13 domestic partner, or when other substantial changes occur in disposable
14 income that are likely to continue for an indefinite period of time,
15 the combined disposable income of such person must be calculated by
16 multiplying the average monthly combined disposable income of such
17 person after such occurrences by twelve. If it is necessary to
18 estimate income to comply with this subsection, the assessor may
19 require confirming documentation of such income prior to May 31 of the
20 year following application;

21 (5)(a) A person who otherwise qualifies under this section and has
22 a combined disposable income of thirty-five thousand dollars or less is
23 exempt from all excess property taxes; and

24 (b)(i) A person who otherwise qualifies under this section and has
25 a combined disposable income of thirty thousand dollars or less but
26 greater than twenty-five thousand dollars is exempt from all regular
27 property taxes on the greater of fifty thousand dollars or thirty-five
28 percent of the valuation of his or her residence, but not to exceed
29 seventy thousand dollars of the valuation of his or her residence; or

30 (ii) A person who otherwise qualifies under this section and has a
31 combined disposable income of twenty-five thousand dollars or less is
32 exempt from all regular property taxes on the greater of sixty thousand
33 dollars or sixty percent of the valuation of his or her residence;

34 (6)(a) For a person who otherwise qualifies under this section and
35 has a combined disposable income of thirty-five thousand dollars or
36 less, the valuation of the residence is the assessed value of the
37 residence on the later of January 1, 1995, or January 1st of the
38 assessment year the person first qualifies under this section. If the

1 person subsequently fails to qualify under this section only for one
2 year because of high income, this same valuation must be used upon
3 requalification. If the person fails to qualify for more than one year
4 in succession because of high income or fails to qualify for any other
5 reason, the valuation upon requalification is the assessed value on
6 January 1st of the assessment year in which the person requalifies. If
7 the person transfers the exemption under this section to a different
8 residence, the valuation of the different residence is the assessed
9 value of the different residence on January 1st of the assessment year
10 in which the person transfers the exemption.

11 (b) In no event may the valuation under this subsection be greater
12 than the true and fair value of the residence on January 1st of the
13 assessment year.

14 (c) This subsection does not apply to subsequent improvements to
15 the property in the year in which the improvements are made.
16 Subsequent improvements to the property must be added to the value
17 otherwise determined under this subsection at their true and fair value
18 in the year in which they are made.

19 **Sec. 75.** RCW 84.36.383 and 2010 c 106 s 307 are each amended to
20 read as follows:

21 As used in RCW 84.36.381 through 84.36.389, except where the
22 context clearly indicates a different meaning:

23 (1) The term "residence" means a single family dwelling unit
24 whether such unit be separate or part of a multiunit dwelling,
25 including the land on which such dwelling stands not to exceed one
26 acre, except that a residence includes any additional property up to a
27 total of five acres that comprises the residential parcel if this
28 larger parcel size is required under land use regulations. The term
29 also includes a share ownership in a cooperative housing association,
30 corporation, or partnership if the person claiming exemption can
31 establish that his or her share represents the specific unit or portion
32 of such structure in which he or she resides. The term also includes
33 a single family dwelling situated upon lands the fee of which is vested
34 in the United States or any instrumentality thereof including an Indian
35 tribe or in the state of Washington, and notwithstanding the provisions
36 of RCW 84.04.080 and 84.04.090, such a residence is deemed real
37 property.

1 (2) The term "real property" also includes a mobile home which has
2 substantially lost its identity as a mobile unit by virtue of its being
3 fixed in location upon land owned or leased by the owner of the mobile
4 home and placed on a foundation (posts or blocks) with fixed pipe,
5 connections with sewer, water, or other utilities. A mobile home
6 located on land leased by the owner of the mobile home is subject, for
7 tax billing, payment, and collection purposes, only to the personal
8 property provisions of chapter 84.56 RCW and RCW 84.60.040.

9 (3) "Department" means the state department of revenue.

10 (4) "Combined disposable income" means the disposable income of the
11 person claiming the exemption, plus the disposable income of his or her
12 spouse or domestic partner, and the disposable income of each cotenant
13 occupying the residence for the assessment year, less amounts paid by
14 the person claiming the exemption or his or her spouse or domestic
15 partner during the assessment year for:

16 (a) Drugs supplied by prescription of a medical practitioner
17 authorized by the laws of this state or another jurisdiction to issue
18 prescriptions;

19 (b) The treatment or care of either person received in the home or
20 in a nursing home, (~~boarding home~~) assisted living facility, or adult
21 family home; and

22 (c) Health care insurance premiums for medicare under Title XVIII
23 of the social security act.

24 (5) "Disposable income" means adjusted gross income as defined in
25 the federal internal revenue code, as amended prior to January 1, 1989,
26 or such subsequent date as the director may provide by rule consistent
27 with the purpose of this section, plus all of the following items to
28 the extent they are not included in or have been deducted from adjusted
29 gross income:

30 (a) Capital gains, other than gain excluded from income under
31 section 121 of the federal internal revenue code to the extent it is
32 reinvested in a new principal residence;

33 (b) Amounts deducted for loss;

34 (c) Amounts deducted for depreciation;

35 (d) Pension and annuity receipts;

36 (e) Military pay and benefits other than attendant-care and
37 medical-aid payments;

38 (f) Veterans benefits, other than:

1 (i) Attendant-care payments;
2 (ii) Medical-aid payments;
3 (iii) Disability compensation, as defined in Title 38, part 3,
4 section 3.4 of the code of federal regulations, as of January 1, 2008;
5 and
6 (iv) Dependency and indemnity compensation, as defined in Title 38,
7 part 3, section 3.5 of the code of federal regulations, as of January
8 1, 2008;
9 (g) Federal social security act and railroad retirement benefits;
10 (h) Dividend receipts; and
11 (i) Interest received on state and municipal bonds.
12 (6) "Cotenant" means a person who resides with the person claiming
13 the exemption and who has an ownership interest in the residence.
14 (7) "Disability" has the same meaning as provided in 42 U.S.C. Sec.
15 423(d)(1)(A) as amended prior to January 1, 2005, or such subsequent
16 date as the department may provide by rule consistent with the purpose
17 of this section.

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